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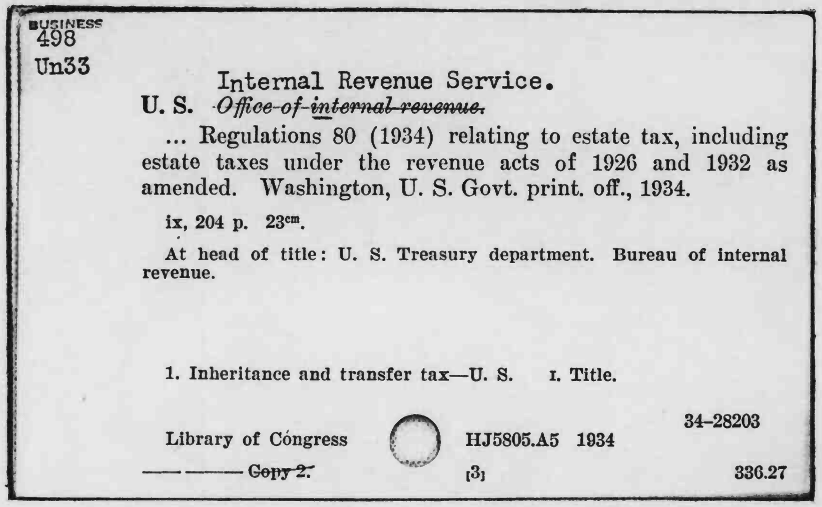

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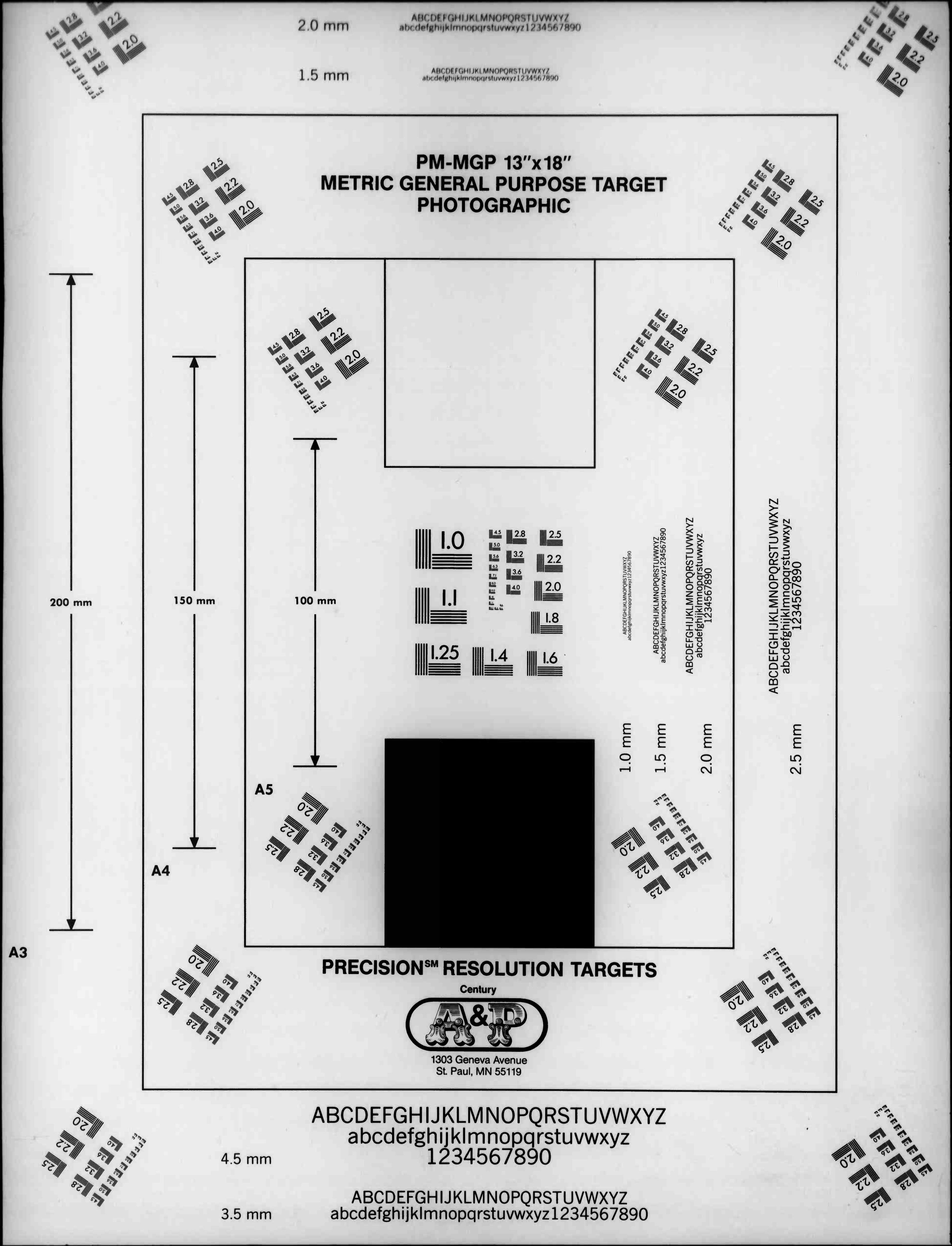

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RELATING TO THE

ESTATE TAX

UNDER

TITLE III OF THE REVENUE ACT OF 1926

As Amended and Supplemented by the Revenue Acts of 1928, 1932, and 1934

AND THE

ESTATE TAX

UNDER

TITLE II OF THE REVENUE ACT OF 1932 AND THE REVENUE ACT OF 1932 AS AMENDED BY THE REVENUE ACT OF 1934

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REGULATIONS 80

ESTATE TAX

[Except as otherwise specified, the section references are to the Revenue Act of 1926]

Title III.—Estate Tax

Sec. 300. When used in this title—

(a) The term "executor" means the executor or administrator of the decedent, or, if there is no executor or administrator appointed, qualified, and acting within the United States, then any person in actual or constructive possession of any property of the decedent;

(b) The term "net estate" means the net estate as determined under the provisions of section 303;

(c) The term "month" means calendar month; and

(d) The term "collector" means the collector of internal revenue of the district in which was the domicile of the decedent at the time of his death, or, if there was no such domicile in the United States, then the collector of the district in which is situated the part of the gross estate of the decedent in the United States, or, if such part of the gross estate is situated in more than one district, then the collector of internal revenue of such district as may be designated by the Commissioner.

Sec. 301. (a) In lieu of the tax imposed by Title III of the Revenue Act of 1924, a tax equal to the sum of the following percentages of the value of the net estate (determined as provided in section 303) is hereby imposed upon the transfer of the net estate of every decedent dying after the enactment of this act, whether a resident or nonresident of the United States;

1 per centum of the amount of the net estate not in excess of $50,000;

2 per centum of the amount by which the net estate exceeds $50,000 and does not exceed $100,000;

3 per centum of the amount by which the net estate exceeds $100,000 and does not exceed $200,000;

4 per centum of the amount by which the net estate exceeds $200,000 and does not exceed $400,000;

5 per centum of the amount by which the net estate exceeds $400,000 and does not exceed $600,000;

6 per centum of the amount by which the net estate exceeds $600,000 and does not exceed $800,000;

7 per centum of the amount by which the net estate exceeds $800,000 and does not exceed $1,000,000;

8 per centum of the amount by which the net estate exceeds $1,000,000 and does not exceed $1,500,000;

9 per centum of the amount by which the net estate exceeds $1,500,000 and does not exceed $2,000,000;

10 per centum of the amount by which the net estate exceeds $2,000,000 and does not exceed $2,500,000;

11 per centum of the amount by which the net estate exceeds $2,500,000 and does not exceed $3,000,000;

12 per centum of the amount by which the net estate exceeds $3,000,000 and does not exceed $3,500,000;

13 per centum of the amount by which the net estate exceeds $3,500,000 and does not exceed $4,000,000;

14 per centum of the amount by which the net estate exceeds $4,000,000 and does not exceed $5,000,000;

15 per centum of the amount by which the net estate exceeds $5,000,000 and does not exceed $6,000,000;

16 per centum of the amount by which the net estate exceeds $6,000,000 and does not exceed $7,000,000;

17 per centum of the amount by which the net estate exceeds $7,000,000 and does not exceed $8,000,000;

18 per centum of the amount by which the net estate exceeds $8,000,000 and does not exceed $9,000,000;

19 per centum of the amount by which the net estate exceeds $9,000,000 and does not exceed $10,000,000;

20 per centum of the amount by which the net estate exceeds $10,000,000.

TITLE II.—ADDITIONAL ESTATE TAX. (REVENUE ACT OF 1932.)

SEC. 401. Revenue Act of 1932.

(a) In addition to the estate tax imposed by section 301(a) of the Revenue Act of 1926, there is hereby imposed upon the transfer of the net estate of every decedent dying after the enactment of this Act, whether a resident or nonresident of the United States, a tax equal to the excess of—

(1) the amount of a tentative tax computed under subsection (b) of this section, over

(2) the amount of the tax imposed by section 301(a) of the Revenue Act of 1926, computed without regard to the provisions of this title.

(b) The tentative tax referred to in subsection (a) (1) of this section shall equal the sum of the following percentages of the value of the net estate:

Upon net estates not in excess of $10,000, 1 per centum.

$100 upon net estates of $10,000; and upon net estates in excess of $10,000 and not in excess of $20,000, 2 per centum in addition of such excess.

$300 upon net estates of $20,000; and upon net estates in excess of $20,000 and not in excess of $30,000, 3 per centum in addition of such excess.

$600 upon net estates of $30,000; and upon net estates in excess of $30,000 and not in excess of $40,000, 4 per centum in addition of such excess.

$1,000 upon net estates of $40,000; and upon net estates in excess of $40,000 and not in excess of $50,000, 5 per centum in addition of such excess.

$1,500 upon net estates of $50,000; and upon net estates in excess of $50,000 and not in excess of $100,000, 7 per centum in addition of such excess.

$5,000 upon net estates of $100,000; and upon net estates in excess of $100,000 and not in excess of $200,000, 9 per centum in addition of such excess.

$14,000 upon net estates of $200,000; and upon net estates in excess of $200,000 and not in excess of $400,000, 11 per centum in addition of such excess.

$36,000 upon net estates of $400,000; and upon net estates in excess of $400,000 and not in excess of $600,000, 13 per centum in addition of such excess.

$62,000 upon net estates of $600,000; and upon net estates in excess of $600,000 and not in excess of $800,000, 15 per centum in addition of such excess.

$92,000 upon net estates of $800,000; and upon net estates in excess of $800,000 and not in excess of $1,000,000, 17 per centum in addition of such excess.

$126,000 upon net estates of $1,000,000; and upon net estates in excess of $1,000,000 and not in excess of $1,500,000, 19 per centum in addition of such excess.

$221,000 upon net estates of $1,500,000; and upon net estates in excess of $1,500,000 and not in excess of $2,000,000, 21 per centum in addition of such excess.

$326,000 upon net estates of $2,000,000; and upon net estates in excess of $2,000,000 and not in excess of $2,500,000, 23 per centum in addition of such excess.

$441,000 upon net estates of $2,500,000; and upon net estates in excess of $2,500,000 and not in excess of $3,000,000, 25 per centum in addition of such excess.

$566,000 upon net estates of $3,000,000; and upon net estates in excess of $3,000,000 and not in excess of $3,500,000, 27 per centum in addition of such excess.

$701,000 upon net estates of $3,500,000; and upon net estates in excess of $3,500,000 and not in excess of $4,000,000, 29 per centum in addition of such excess.

$846,000 upon net estates of $4,000,000; and upon net estates in excess of $4,000,000 and not in excess of $4,500,000, 31 per centum in addition of such excess.

$1,001,000 upon net estates of $4,500,000; and upon net estates in excess of $4,500,000 and not in excess of $5,000,000, 33 per centum in addition of such excess.

$1,166,000 upon net estates of $5,000,000; and upon net estates in excess of $5,000,000 and not in excess of $6,000,000, 35 per centum in addition of such excess.

$1,516,000 upon net estates of $6,000,000; and upon net estates in excess of $6,000,000 and not in excess of $7,000,000, 37 per centum in addition of such excess.

$1,886,000 upon net estates of $7,000,000; and upon net estates in excess of $7,000,000 and not in excess of $8,000,000, 39 per centum in addition of such excess.

$2,276,000 upon net estates of $8,000,000; and upon net estates in excess of $8,000,000 and not in excess of $9,000,000, 41 per centum in addition of such excess.

$2,686,000 upon net estates of $9,000,000; and upon net estates in excess of $9,000,000 and not in excess of $10,000,000, 43 per centum in addition of such excess.

$3,116.000 upon net estates of $10,000,000; and upon net estates in excess of $10,000,000, 45 per centum in addition of such excess.

(c) For the purposes of this section the value of the net estate shall be determined as provided in Title III of the Revenue Act of 1926, as amended, except that in lieu of the exemption of $100,000 provided in section 303 (a) (4) of such Act, the exemption shall be $50,000.

SEC. 405. Revenue Act of 1934.

(a) Section 401 (b) of the Revenue Act of 1932 is amended to read as follows:

"(b) The tentative tax referred to in subsection (a) (1) of this section shall equal the sum of the following percentages of the value of the net estate:

"Upon net estates not in excess of $10,000, 1 per centum.

"$100 upon net estates of $10,000; and upon net estates in excess of $10,000 and not in excess of $20,000, 2 per centum in addition of such excess.

"$300 upon net estates of $20,000; and upon net estates in excess of $20,000 and not in excess of $30,000, 3 per centum in addition of such excess.

"$600 upon net estates of $30,000; and upon net estates in excess of $30,000 and not in excess of $40,000, 4 per centum in addition of such excess.

"$1,000 upon net estates of $40,000; and upon net estates in excess of $40,000 and not in excess of $50,000, 5 per centum in addition of such excess.

"$1,500 upon net estates of $50,000; and upon net estates in excess of $50,000 and not in excess of $70,000, 7 per centum in addition of such excess.

"$2,900 upon net estates of $70,000; and upon net estates in excess of $70,000 and not in excess of $100,000, 9 per centum in addition of such excess.

"$5,600 upon net estates of $100,000; and upon net estates in excess of $100,000 and not in excess of $200,000, 12 per centum in addition of such excess.

"$17,600 upon net estates of $200,000; and upon net estates in excess of $200,000 and not in excess of $400,000, 16 per centum in addition of such excess.

"$49,600 upon net estates of $400,000; and upon net estates in excess of $400,000 and not in excess of $600,000, 19 per centum in addition of such excess.

"$87,600 upon net estates of $600,000; and upon net estates in excess of $600,000 and not in excess of $800,000, 22 per centum in addition of such excess.

"$131,600 upon net estates of $800,000; and upon net estates in excess of $800,000 and not in excess of $1,000,000, 25 per centum in addition of such excess.

"$181,600 upon net estates of $1,000,000; and upon net estates in excess of $1,000,000 and not in excess of $1,500,000, 28 per centum in addition of such excess.

"$321,600 upon net estates of $1,500,000; and upon net estates in excess of $1,500,000 and not in excess of $2,000,000, 31 per centum in addition of such excess.

"$476,600 upon net estates of $2,000,000; and upon net estates in excess of $2,000,000 and not in excess of $2,500,000, 34 per centum in addition of such excess.

"$646,600 upon net estates of $2,500,000; and upon net estates in excess of $2,500,000 and not in excess of $3,000,000, 37 per centum in addition of such excess.

"$831,600 upon net estates of $3,000,000; and upon net estates in excess of $3,000,000 and not in excess of $3,500,000, 40 per centum in addition of such excess.

"$1,031,600 upon net estates of $3,500,000; and upon net estates in excess of $3,500,000 and not in excess of $4,000,000, 43 per centum in addition of such excess.

"$1,246,600 upon net estates of $4,000,000; and upon net estates in excess of $4,000,000 and not in excess of $4,500,000, 46 per centum in addition of such excess.

"$1,476,600 upon net estates of $4,500,000; and upon net estates in excess of $4,500,000 and not in excess of $5,000,000, 48 per centum in addition of such excess.

"$1,716,600 upon net estates of $5,000,000; and upon net estates in excess of $5,000,000 and not in excess of $6,000,000, 50 per centum in addition of such excess.

"$2,216,600 upon net estates of $6,000,000; and upon net estates in excess of $6,000,000 and not in excess of $7,000,000, 52 per centum in addition of such excess.

"$2,736,600 upon net estates of $7,000,000; and upon net estates in excess of $7,000,000 and not in excess of $8,000,000, 54 per centum in addition of such excess.

"$3,276,600 upon net estates of $8,000,000; and upon net estates in excess of $8,000,000 and not in excess of $9,000,000, 56 per centum in addition of such excess.

"$3,836,600 upon net estates of $9,000,000; and upon net estates in excess of $9,000,000 and not in excess of $10,000,000, 58 per centum in addition of such excess.

"$4,416,600 upon net estates of $10,000,000; and upon net estates in excess of $10,000,000, 60 per centum in addition of such excess."

(b) The amendment made by this section shall be effective only with respect to transfers of estates of decedents dying after the date of the enactment of this Act.

ARTICLE 1. The various statutes.—The Federal estate tax was first imposed by the Act of September 8, 1916. This law was amended by the Act of March 3, 1917 (Title III), by increasing the rate of tax. The Act of October 3, 1917 (Title IX), imposed a tax upon the transfer of the net estate of decedents dying after October 3, 1917, in addition to the tax imposed by the Revenue Act of 1916, as amended. The Revenue Act of 1918 (Title IV), which became effective at 6.55 p. m., eastern standard time, February 24, 1919, reduced the rates applicable to net estates below $1,500,000, as compared with those of Title IX of the Revenue Act of 1917, and contained a number of provisions not found in any of the prior Acts. The Revenue Act of 1921 (Title IV) became effective at 3.55 p. m., eastern standard time, November 23, 1921. It reenacted without change the rates of Title IV of the Revenue Act of 1918; supplanted all prior Acts as to the estates of decedents dying after the effective date thereof; embodied numerous changes, but contained many of the provisions of the earlier Acts. The Revenue Act of 1924 (Part I, Title III), which became effective at 4.01 p. m., eastern standard time, June 2, 1924, as originally enacted, increased the rates applicable to net estates in excess of $100,000, as compared with those of Title IV of the Revenue Act of 1921; contained provisions not found in any of the prior Acts; but did not include all of the exemptions accorded by the Revenue Act of 1921.

The Revenue Act of 1926 (Title III), which became effective at 10.25 a. m., eastern standard time, February 26, 1926, increased from $50,000 to $100,000 the specific exemption to be deducted from the gross estates of resident decedents in determining the net estates for the purpose of the tax and made effective rates ranging from 1 to 20 per cent. The Revenue Act of 1926 amends the rates imposed by Part 1, Title III, of the Revenue Act of 1924, by substituting for such rates the same rates imposed by the Revenue Acts of 1918 and 1921; allows a credit in estates of decedents dying after the enactment of the Revenue Act of 1926, on account of State inheritance tax paid, not to exceed 80 per cent of the tax imposed by the Act; and contains provisions not found in the prior Acts. The Revenue Act of 1928 (Part 1, Title II), which became effective at 8 a. m., eastern standard time, May 29, 1928, does not repeal Title III of the Revenue Act of 1926, but makes certain amendments to that title and amends and supplements the general administrative provisions of the Revenue Act of 1926. Public Resolution No. 131, Seventy-first Congress, approved 10.30 p. m., eastern standard time, March 3, 1931, amends certain provisions of the Revenue Act of 1926. The Revenue Act of 1932, which became effective at 5 p. m., eastern standard time, June 6, 1932, by Title II, imposes a tax upon the net estates of decedents dying after the effective date thereof, in addition to the tax imposed by the Revenue Act of 1926, to be assessed, collected, and paid and subject to the same provisions of law as the tax imposed by the Revenue Act of 1926, the net estate for the purposes of such additional tax being determined by deducting a specific exemption of only $50,000 and against such additional tax no credit is allowed on account of State estate, inheritance, legacy, or succession taxes paid. The Revenue Act of 1932 also, by Title VI, amends and supplements the provisions of the Revenue Act of 1926. The Revenue Act of 1934 amends the Revenue Act of 1932 by increasing the rates for the computation of

the additional tax (imposed upon estates of decedents dying on or after May 11, 1934), and also by Title II and Title III amends and supplements certain provisions of the Revenue Act of 1926 and the Revenue Act of 1932, effective 11.40 a. m., eastern standard time, May 10, 1934. The Revenue Act of 1926, as amended and supplemented by the Revenue Act of 1928, the Joint Resolution (Public, No. 131, Seventy-first Congress) of March 3, 1931, the Revenue Act of 1932, and the Revenue Act of 1934, is herein referred to as "the statute." References to other statutes are specific.

ART. 2. **Transfers and interests reached.**—The statute subjects to tax transfers resulting from the decedent's death. Except bona fide sales for an adequate and full consideration in money or money's worth, it also subjects to tax transfers made by the decedent in his lifetime (1) if made in contemplation of death; or (2) if intended to take effect in possession or enjoyment at or after his death, as, for example, in the case he retained the income of the transferred property or the right thereto for his life, or for any period not ascertainable without reference to his death, or for any period of such duration as to evidence an intention to retain the enjoyment throughout his life; or (3) if he retained for any such period, either alone or in conjunction with any other person or persons, the right to designate those who should possess or enjoy the transferred property or the income therefrom; or (4) if at his death the enjoyment of the transferred property was subject to any change through the exercise of a power by him alone or in conjunction with any other person or persons to alter, amend, or revoke, or in the case such a power was relinquished by him in contemplation of his death.

There are also subject to tax the homestead and other exemptions; dower, curtesy, or statutory estate in lieu thereof, of the surviving spouse; property held by the decedent and another person or persons if the survivor or survivors take by right of survivorship; property passing under a general power of appointment exercised by the decedent; insurance receivable by the executor under policies taken out by the decedent upon his life, and insurance so taken out and receivable by all other beneficiaries to the extent that the aggregate amount thereof exceeds $40,000.

ART. 3. **Neither a property nor an inheritance tax.**—The Federal estate tax is imposed upon the transfer of the net estate of every person dying after September 8, 1916, determined in the manner prescribed by the applicable law. (See article 1.) The tax is not laid upon the property but upon the transfer of the entire net estate and not any particular legacy, devise, or distributive share. The relationship of the beneficiary to the decedent has no bearing upon the question of liability or the extent thereof. The transfer of property is taxable although it escheats to the State for lack of heirs.

ESTATES SUBJECT TO TAX

Art. 4. Description of taxable estates.—The tax is imposed upon the transfer of the net estate. The term "net estate" has a distinct meaning in the statute, signifying the difference between the total value of the gross estate and the total of the authorized deductions. One of the deductions authorized in the case of the estate of a resident of the United States is a specific exemption. A specific exemption is also an authorized deduction in the case of the estate of a citizen of the United States regardless of residence, if the decedent died after 11.40 a. m., eastern standard time, May 10, 1934. For detailed information regarding the specific exemption, see article 48.

There is no basis for tax if the value of the gross estate does not exceed the total amount of the authorized deductions. Whether taxable or not, a return must be filed in every case, except in the case the value of the gross estate at the date of death does not exceed the amount of the specific exemption allowable. For detailed information regarding returns, see articles 63, 64, 65, and 70.

Art. 5. Definition of "citizen," "resident," and "nonresident."—The statute provides (paragraph (5) of section 2 (a)) that the term "United States," when used in a geographical sense, includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

A resident is one who, at the time of his death, had his domicile in the United States; or one who was a citizen of the United States at the time of death and with respect to whose property any probate or administration proceedings are had in the United States Court for China. (See section 321 (a).) A missionary who, at the time of death, was serving as such under a foreign missionary board of any religious denomination in the United States, will be presumed to have died a resident of the United States, if domiciled therein at the time of his or her commission and departure for such service, and not a nonresident merely by reason of his or her intention to permanently remain in such service. (See section 303 (f).) All persons not residents of the United States as above defined, or to whom the presumption just stated does not apply, are nonresidents.

A citizen of the United States is a nonresident if his domicile is in Puerto Rico, the Philippine Islands, or other foreign country, whereas a subject or a citizen of a foreign country is a resident if his domicile is in the United States. A person acquires a domicile in a place by living there, for even a brief period of time, with no definite present intention of later removing therefrom. Residence without the requisite intention to remain indefinitely will not suffice to constitute domicile, nor will intention to change domicile effect such a change unless accompanied by actual removal.

Every person born or naturalized in the United States (including citizens and residents of possessions of the United States who have been made citizens of the United States by treaty or Act of Congress) who owes his allegiance to or is entitled to the protection of the United States is a citizen thereof. When any naturalized citizen has left the United States and resided for two years in the foreign country from which he came or five years in any other foreign country, it is presumed that he has ceased to be a citizen of the United States. This presumption does not apply, however, to residents abroad when the United States was at war, nor does it apply in the case of individuals born in the United States. For example, if a subject of the King of Sweden, after being naturalized in the United States, returned to Sweden and resided there for two years prior to April 6, 1917, he is presumed once more to be an alien. However, even though an individual born in the United States of either citizen or alien parents resided in a foreign country for a number of years, he would still be a citizen of the United States unless he had become naturalized in or taken an oath of allegiance to the foreign country of residence or some other foreign state. A person who has filed his declaration of intention of becoming a citizen of the United States but who has not yet received his final citizenship papers is an alien.

Subsequent to the enactment of the amendments to the Revenue Act of 1926 made by the Revenue Act of 1934 different provisions control the determination of the tax liability of the estates of citizens or residents of the United States and the estates of nonresidents not citizens of the United States. Prior to the enactment of the amendments contained in the Revenue Act of 1934 the tax liability of estates of residents and nonresidents was controlled by different provisions without regard to citizenship except as to estates administered in the United States Court for China as in this article indicated.

DETERMINATION OF TAX LIABILITY

Art. 6. Manner of determining liability.—The first step in the determination of tax liability is to ascertain the total value of the decedent's gross estate. (See articles 10 to 28, inclusive; also article 50.) The second step is to subtract from the value of the gross estate the total amount of the deductions authorized in order to arrive at the value of the net estate. (See articles 29 to 48, inclusive, and articles 51 to 55, inclusive.) The third step is the computation of the tax and any allowable credits. (See articles 7, 8, and 9.)

If the specific exemption is applicable and the decedent died after the enactment of the Revenue Act of 1932, the net estate must be determined on the basis of a specific exemption of $100,000 for the computation of the tax imposed by the Revenue Act of 1926, and the net estate must also be determined on the basis of a specific exemption of $50,000 for the computation of the additional tax imposed by the Revenue Act of 1932 and the additional tax imposed by such Act as amended by the Revenue Act of 1934.

ART. 7. **Rates of tax.**—The Revenue Act of 1916, the amendment thereto of March 3, 1917, the Revenue Act of 1917, the Revenue Act of 1918, and the Revenue Act of 1924, as originally enacted, each imposed different rates of tax. The rates imposed by the Revenue Act of 1921 are the same as those prescribed in the Revenue Act of 1918. The rates imposed by the Revenue Act of 1924, as originally enacted, were different from those prescribed in any of the prior Acts, but section 322 (a) of the Revenue Act of 1926 amends section 301 (a) of the Revenue Act of 1924, effective as of June 2, 1924, so as to impose the same rates prescribed by the Revenue Acts of 1918 and 1921. The rates imposed by the Revenue Act of 1926 are different from those prescribed in any of the prior Acts and are applicable to the estates of decedents dying after 10.25 a m., eastern standard time, February 26, 1926, no change in rates being made by the provisions of the Revenue Act of 1928. An additional tax is imposed by the Revenue Act of 1932 which is the excess of the amount computed at the rates set forth in the Revenue Act of 1932 over the tax imposed by the Revenue Act of 1926. The rates set forth in the Revenue Act of 1932 are applicable to estates of decedents dying after 5 p. m., eastern standard time, June 6, 1932, and before May 11, 1934. The rates prescribed for the computation of the additional tax by the Revenue Act of 1934 are applicable to estates of decedents dying on or after May 11, 1934. See " Table I " and " Table II " for the rates, and the following article for an explanation for the use of the tables.

ART. 8. **Computation of tax.**—The tax imposed by the Revenue Act of 1926 and earlier Acts is computed on the value of the net estate at progressively graduated rates. The additional tax imposed by the Revenue Act of 1932 and by the Revenue Act of 1934 in amendment thereof is obtained by subtracting the tax imposed by the Revenue Act of 1926 from the tax computed at the rates set forth either in the Revenue Act of 1932 or that of 1934, as the case may require. The remainder resulting from such subtraction is the additional tax imposed. In certain cases arising after the enactment of the Revenue Act of 1924, the tax is reduced by authorized credits. (See article 9.) If credits are authorized, the tax computed at the rates prescribed by the Revenue Act of 1924 and the Revenue Act of 1926 and the additional tax computed under the provisions of the Revenue Act of 1932 or the Revenue Act of 1934 is the gross tax or the tax before reduction by credits. The difference between the gross tax and the credits is the net tax.

Table I shows the tax and rates in effect under the Revenue Acts of 1934, 1932, and 1926. Table II shows the tax and rates in effect prior to the enactment of the Revenue Act of 1926 and after the enactment of the Revenue Act of 1916. Column (1) of Table I sets forth the total taxes imposed by the Revenue Act of 1926 and the Revenue Act of 1932 as amended by the Revenue Act of 1934—that is, the tax imposed by section 301 (a) of the Revenue Act of 1926 and the additional tax imposed by section 401 of the Revenue Act of 1932, as amended by section 405 of the Revenue Act of 1934, upon specified amounts and the rates for the total taxes upon the excess of such amounts. Column (2) of Table I sets forth the total taxes imposed by the Revenue Act of 1926 and the Revenue Act of 1932, prior to the enactment of the Revenue Act of 1934, upon specified amounts and the rates for the total taxes upon the excess of such amounts. Column (3) of Table I sets forth the tax imposed by the Revenue Act of 1926 upon specified amounts and the rates for the tax upon the excess of such amounts. Columns (1) to (4), inclusive, of Table II set forth the tax on specified amounts and the rates for the tax upon the excess of such amounts, in effect for the periods shown in the headings. Column (A) of each table sets forth the specified amounts upon which the tax is shown in the first subcolumn of each of the numbered columns. It also indicates the respective minimum limits to which the rates shown in the second subcolumn of each of the numbered columns are applicable. Column (B) of each table indicates the respective maximum limits to which the rates shown in the second subcolumn of each of the numbered columns are applicable.

The computation under each column must be based on the applicable net estate. The net estate of a resident decedent computed for the purpose of the additional tax imposed by the Revenue Act of 1932 differs from the net estate computed for the purpose of the tax imposed by the Revenue Act of 1926 because of the difference in the specific exemption.

TABLE I (FOR COMPUTATION OF ESTATE TAX)

(A) Net estate equaling—	(B) Net estate not exceeding—	(1) In effect on and after May 11, 1934. (Tentative tax, 1932 Act as amended.) Total taxes imposed by 1926 Act and by 1932 Act as amended by 1934 Act		(2) In effect from 5 p. m., eastern standard time, June 6, 1932, to May 10, 1934, inclusive. (Tentative tax, 1932 Act.) Total taxes imposed by 1926 Act and by 1932 Act		(3) In effect after 10.25 a. m., eastern standard time, Feb. 26, 1926. Revenue Act of 1926	
		Tax on amount in column A	Rate of tax on excess over amount in column A	Tax on amount in column A	Rate of tax on excess over amount in column A	Tax on amount in column A	Rate of tax on excess over amount in column A
			Per cent		*Per cent*		*Per cent*
----------	$10,000	----------	1	----------	1	----------	1
$10,000	20,000	$100	2	$100	2	$100	1
20,000	30,000	300	3	300	3	200	1
30,000	40,000	600	4	600	4	300	1
40,000	50,000	1,000	5	1,000	5	400	1
50,000	70,000	1,500	7	1,500	7	500	2
70,000	100,000	2,900	9	2,900	7	900	2
100,000	200,000	5,600	12	5,000	9	1,500	3
200,000	400,000	17,600	16	14,000	11	4,500	4
400,000	600,000	49,600	19	36,000	13	12,500	5
600,000	800,000	87,600	22	62,000	15	22,500	6
800,000	1,000,000	131,600	25	92,000	17	34,500	7
1,000,000	1,500,000	181,600	28	126,000	19	48,500	8
1,500,000	2,000,000	321,600	31	221,000	21	88,500	9
2,000,000	2,500,000	476,600	34	326,000	23	133,500	10
2,500,000	3,000,000	646,600	37	441,000	25	183,500	11
3,000,000	3,500,000	831,600	40	566,000	27	238,500	12
3,500,000	4,000,000	1,031,600	43	701,000	29	298,500	13
4,000,000	4,500,000	1,246,600	46	846,000	31	363,500	14
4,500,000	5,000,000	1,476,600	48	1,001,000	33	433,500	14
5,000,000	6,000,000	1,716,600	50	1,166,000	35	503,500	15
6,000,000	7,000,000	2,216,600	52	1,516,000	37	653,500	16
7,000,000	8,000,000	2,736,600	54	1,886,000	39	813,500	17
8,000,000	9,000,000	3,276,600	56	2,276,000	41	983,500	18
9,000,000	10,000,000	3,836,600	58	2,686,000	43	1,163,500	19
10,000,000	----------	4,416,600	60	3,116,000	45	1,353,500	20

TABLE II (FOR COMPUTATION OF ESTATE TAX,

(A) Net estate equaling—	(B) Net estate not exceeding—	(1) In effect from 6.55 p. m., eastern standard time, Feb. 24, 1919, to 10.25 a. m., eastern standard time, Feb. 26, 1926. Revenue Acts of 1918, 1921, and 1924		(2) In effect from Oct. 4, 1917, to 6.55 p. m., eastern standard time, Feb. 24, 1919, inclusive. Total taxes imposed by 1916 Act as amended by Act of Mar. 3, 1917, and imposed by 1917 Act		(3) In effect from Mar. 3, 1917, to Oct. 3, 1917, inclusive. Revenue Act of 1916 as amended by Act of Mar. 3, 1917		(4) In effect from Sept. 9, 1916, to Mar. 2, 1917, inclusive. Revenue Act of 1916	
		Tax on amount in column A	Rate of tax on excess over amount in column A	Tax on amount in column A	Rate of tax on excess over amount in column A	Tax on amount in column A	Rate of tax on excess over amount in column A	Tax on amount in column A	Rate of tax on excess over amount in column A
			Per cent		*Per cent*		*Per cent*		*Per cent*
----------	$50,000	----------	1	----------	2	----------	1½	----------	1
$50,000	150,000	$500	2	$1,000	4	$750	3	$500	2
150,000	250,000	2,500	3	5,000	6	3,750	4½	2,500	3
250,000	450,000	5,500	4	11,000	8	8,250	6	5,500	4
450,000	750,000	13,500	6	27,000	10	20,250	7½	13,500	5
750,000	1,000,000	31,500	8	57,000	10	42,750	7½	28,500	5
1,000,000	1,500,000	51,500	10	82,000	12	61,500	9	41,000	6
1,500,000	2,000,000	101,500	12	142,000	12	106,500	9	71,000	6
2,000,000	3,000,000	161,500	14	202,000	14	151,500	10½	101,000	7
3,000,000	4,000,000	301,500	16	342,000	16	256,500	12	171,000	8
4,000,000	5,000,000	461,500	18	502,000	18	376,500	13½	251,000	9
5,000,000	8,000,000	641,500	20	682,000	20	511,500	15	341,000	10
8,000,000	10,000,000	1,241,500	22	1,282,000	22	961,500	15	641,000	10
10,000,000	----------	1,681,500	25	1,722,000	25	1,261,500	15	841,000	10

An illustration of the tables' use is as follows: The net estate of a decedent who died July 1, 1931, amounts to $1,240,000. By reference to Table I it will be seen that the specified amount in column (A) nearest to the value of the decedent's net estate but less than such value is $1,000,000. The tax upon this amount as indicated in column (3) opposite $1,000,000 in column (A) is $48,500. Upon the remainder of the net estate, $240,000, the tax is computed at the rate of 8 per cent set out in the second subcolumn of column (3) opposite $1,000,000 in column (A). The tax on this remainder is, consequently, $19,200. The following result is thus obtained:

Tax on	$1,000,000=	$48,500
Tax on	240,000=	19,200
Total	1,240,000	67,700

Example (in the case the transfer of the net estate is subject to the tax imposed by the Revenue Act of 1926 and also to the additional tax imposed by the Revenue Act of 1932 as amended by the Revenue Act of 1934, and if credit for State inheritance tax is involved): A resident decedent died August 15, 1934, leaving a net estate of the value of $210,000 after deducting the specific exemption of $100,000 allowed by the Revenue Act of 1926. The tax shown in the first subcolumn of column (3) of Table I on a net estate equaling $200,000 is $4,500. As $210,000 exceeds $200,000 and falls below $400,000, the tax on the excess of $10,000 is computed at the rate of 4 per cent, the rate shown in the second subcolumn of column (3). The $400 tax on such excess added to $4,500 gives $4,900, the gross tax computed under the Revenue Act of 1926. (Credit for gift tax is not involved in this example.) It will be assumed that the maximum amount of credit, $3,920, or 80 per cent of $4,900, is allowed for State inheritance tax. The net tax imposed by the Revenue Act of 1926 is the difference between $4,900 and $3,920, or $980. For the purpose of the additional tax imposed by the Revenue Act of 1934 the decedent's net estate after deducting the specific exemption of $50,000 is $260,000. The total gross taxes imposed by the Revenue Act of 1926 and the Revenue Act of 1934 shown in the first subcolumn of column (1) on a net estate equaling $200,000 is $17,600. As $260,000 exceeds $200,000 and falls below $400,000, the tax on the excess of $60,000 is computed at 6 per cent, the rate shown in the second subcolumn of column (1). The tax on such excess is, consequently, $9,600. The $9,600 added to the $17,600 gives $27,200, the tax computed upon the net estate of $260,000 at the rates set forth in the Revenue Act of 1934. The difference between the total gross taxes imposed by the Revenue Act of 1926 and the Revenue Act of 1934, $27,200, and the gross tax, $4,900, imposed by the Revenue Act of 1926, is $22,300, the additional tax imposed by the Revenue Act of 1934. As in this example no credit for gift tax is involved, the amount of the gross additional tax imposed by the Revenue Act of 1934 is the same as the net additional tax imposed by the Revenue Act of 1934. The net tax imposed by the Revenue Act of 1926, $980, added to the net additional tax imposed by the Revenue Act of 1934, $22,300, results in a total net tax of $23,280. A tabulation of this example is as follows:

Gross tax imposed by 1926 Act	$4,900	
Credit for gift tax imposed by 1924 and/or 1932 Act	0	
Gross tax, less credit for gift tax	4,900	
Credit for estate, inheritance, legacy, or succession tax	3,920	
Net tax imposed by 1926 Act		$980
Total gross taxes imposed by 1926 and 1934 Acts	27,200	
Gross tax imposed by 1926 Act	4,900	
Gross additional tax imposed by 1934 Act	22,300	
Credit for gift tax imposed by 1932 Act	0	
Net additional tax imposed by 1934 Act		22,300
Total net tax		23,280

Example (if the transfer of the net estate is subject only to the additional tax imposed by the Revenue Act of 1934): The gross estate of a resident decedent who died September 1, 1934, amounts to $85,000. Deductions for administration expenses and claims against the estate are allowed in the amount of $10,000, leaving $75,000 before the deduction of the specific exemption authorized by the Revenue Act of 1926. As that exemption is $100,000, it is apparent that the estate is not subject to the estate tax imposed by such Act. However, as the specific exemption authorized by the Revenue Act of 1934 is only $50,000, the estate is subject to the additional estate tax imposed by the latter Act. For the purpose of such additional estate tax the net estate amounts to $25,000. The tax shown in the first subcolumn of column (1) of Table I on a net estate equaling $20,000 is $300. As $25,000 exceeds $20,000 and falls below $30,000, the tax on the excess of $5,000 is computed at 3 per cent, the rate shown in the second subcolumn of column (1). The tax on such excess is, consequently, $150. The $150 added to the $300 gives $450, the tax computed upon the net estate of $25,000 at the rates prescribed by the Revenue Act of 1934. Inasmuch as, in this example, the estate is not subject to the tax imposed by the Revenue Act of 1926, $450 is the gross additional tax imposed by the Revenue Act of 1934. As credit for gift tax is not involved in this example, the gross additional tax is the same as the net additional tax. It will be noted that credit for State or Territorial estate, inheritance, legacy, or succession taxes is not allowable against the additional tax imposed by the Revenue Act of 1934.

Example (if the transfer of the net estate is subject to the tax imposed by the Revenue Act of 1926 and to the additional tax imposed by the Revenue Act of 1932, and if credits for gift tax and for State inheritance taxes are involved): The value of the gross estate of a resident decedent who died September 15, 1932, is $400,000 and the value of the net estate for the purpose of the tax imposed by the Revenue Act of 1926 is $225,000. The gross tax imposed by the Revenue Act of 1926 is $5,500. (See illustration for use of table in computing the tax). On July 1, 1932, the decedent, in contemplation of death, transferred certain real property to his daughter as a gift. The value of the real property as of the date of the gift, and as of the time of death, was $155,000. As a result of this gift, a gift tax was paid in the amount of $3,625, gift tax on net gift of $100,000 after exclusion of $5,000 and deduction of $50,000 specific exemption. (See Gift Tax Act of 1932.) As the value of the transferred real property is included in the decedent's gross estate, a credit for gift tax is allowed against the gross tax imposed by the Revenue Act of 1926 in such amount as does not exceed an amount which bears the same ratio to the gross tax, $5,500, as the value at which the taxable gift ($155,000 less the gift tax exclusion of $5,000) is included in the gross estate bears to the value of the entire gross estate. (See article 9 (a).) This ratio, which is ascertained by dividing $150,000 by $400,000, is .375. The credit for gift tax is, therefore, allowed in the amount which results from multiplying $5,500 by .375, or $2,062.50. The gross tax, $5,500, less the credit for gift tax, is $3,437.50. It will be assumed that State inheritance taxes paid equal or exceed the maximum amount of the credit (80 per cent of the gross tax less the gift tax credit) allowable therefor. Accordingly, $2,750 is allowed as the credit for State inheritance taxes. The difference between $3,437.50 and $2,750 is $687.50, which is the net tax imposed by the Revenue Act of 1926. The net estate for the purpose of the additional tax imposed by the Revenue Act of 1932 is $275,000. The total gross taxes imposed by the Revenue Act of 1926 and the Revenue Act of 1932 computed in accordance with the table is $22,250. The difference between such total gross taxes and $5,500, the gross tax computed under the Revenue Act of 1926, is $16,750, the gross additional tax imposed by the Revenue Act of 1932. The credit for gift tax against such gross additional tax (1) can not exceed an amount which bears the same ratio to the gross additional tax computed under the Revenue Act of 1932 as the value at which the taxable gift is included in the gross estate bears to the value of the entire

gross estate ($16,750, the gross tax, multiplied by .375, the factor, equals $6,281.25), and (2) can not exceed the difference between the total amount of the gift tax and the credit for gift tax allowed against the gross tax computed under the Revenue Act of 1926. The credit here allowed is $3,625 less $2,062.50, or $1,562.50. A tabulation of this example is as follows:

Gross tax imposed by 1926 Act	$5,500.00	
Credit for gift tax imposed by 1924 and/or 1932 Act	2,062.50	
Gross tax less credit for gift tax	3,437.50	
Credit for estate, inheritance, legacy, or succession tax	2,750.00	
Net tax imposed by 1926 Act		$687.50
Total gross taxes imposed by 1926 and 1932 Acts	22,250.00	
Gross tax imposed by 1926 Act	5,500.00	
Gross additional tax imposed by 1932 Act	16,750.00	
Credit for gift tax imposed by 1932 Act	1,562.50	
Net additional tax imposed by 1932 Act		15,187.50
Total net tax		15,875.00

CREDITS AGAINST ESTATE TAX

(Gift Tax Credit)

Sec. 801. Revenue Act of 1932.

Section 301 of the Revenue Act of 1926 is amended by inserting after subdivision (a) a new subdivision to read as follows:

"(b) (1) If a tax has been paid under Title III of the Revenue Act of 1932 on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this title, then there shall be credited against the tax imposed by subdivision (a) of this section the amount of the tax paid under such Title III with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit shall not exceed an amount which bears the same ratio to the tax imposed by subdivision (a) of this section as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate.

"(2) For the purposes of paragraph (1), the amount of tax paid for any year under Title III of the Revenue Act of 1932 with respect to any property shall be an amount which bears the same ratio to the total tax paid for such year as the value of such property bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year."

Sec. 402. Revenue Act of 1932. (Pertaining to additional estate tax.)

* * * * * * *

(b) (1) If a tax has been paid under Title III of this Act on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this title, then there shall be credited against the tax imposed by section 401 of this Act the amount of the tax paid under such Title III with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit (A) shall not exceed an amount which bears the same ratio to the tax imposed by section 401 of this Act as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate, and (B) shall not exceed the amount by which the gift tax paid under Title III of this Act with respect to so much of the property as constituted the gift as is included in the gross estate, exceeds the amount of the credit under section 301 (b) of the Revenue Act of 1926, as amended by this Act.

(2) For the purposes of paragraph (1), the amount of tax paid for any year under Title III of this Act with respect to any property shall be an amount which bears the same ratio to the total tax paid for such year as the value of such property bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year.

Sec. 404. Revenue Act of 1928.

Section 322 of the Revenue Act of 1924 (relating to the credit of gift tax against estate tax where the amount of the gift is required to be included in the gross estate of the decedent) is revived as of January 1, 1926 (the effective date of its repeal by the Revenue Act of 1926). Such section shall also be applied in the case of the estate tax imposed by Title III of the Revenue Act of 1926, in the same manner and to the same extent as in the case of the estate tax imposed by Title III of the Revenue Act of 1924.

Sec. 322. Revenue Act of 1924.

In case a tax has been imposed under section 319 upon any gift, and thereafter upon the death of the donor the amount thereof is required by any provision of Part I of this title to be included in the gross estate of the decedent then there shall be credited against and applied in reduction of the estate tax, which would otherwise be chargeable against the estate of the decedent under the provisions of section 301, an amount equal to the tax paid with respect to such gift; and in the event the donor has in any year paid the tax imposed by section 319 with respect to a gift or gifts which upon the death of the donor must be included in his gross estate and a gift or gifts not required to be so included, then the amount of the tax which shall be deemed to have been paid with respect to the gift or gifts required to be so included shall be that proportion of the entire tax paid on account of all such gifts which the amount of the gift or gifts required to be so included bears to the total amount of gifts in that year.

(Inheritance Tax Credit)

Sec. 301. * * *

(b) The tax imposed by this section shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia, in respect of any property included in the gross estate. The credit allowed by this subdivision shall not exceed 80 per centum of the tax imposed by this section, and shall include only such taxes as were actually paid and credit therefor claimed within three years after the filing of the return required by section 304.

Sec. 802. Revenue Act of 1932.

(a) Section 301(b) of the Revenue Act of 1926 is amended to read as follows:

"(c) The tax imposed by subdivision (a) of this section shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia, in respect of any property included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent). The credit allowed by this subdivision shall not exceed 80 per centum of the tax imposed by subdivision (a) (after deducting from such tax the credits provided by subdivision (b)), and shall include only such taxes as were actually paid and credit therefor claimed within four years after the filing of the return required by section 304, except that—

"(1) If a petition for redetermination of a deficiency has been filed with the Board of Tax Appeals within the time prescribed in section 308, then within such four-year period or before the expiration of 60 days after the decision of the Board becomes final.

"(2) If, under subdivision (b) of section 305 or subdivision (i) of section 308, an extension of time has been granted for payment of the tax shown on the return, or of a deficiency, then within such four-year period or before the date of the expiration of the period of the extension.

Refund based on the credit may (despite the provisions of section 319) be made if claim therefor is filed within the period above provided. Any such refund shall be made without interest, except that where the overpayment was made prior to the enactment of the Revenue Act of 1932, then interest shall be allowed and paid on the amount refunded at the rate of 6 per centum per annum from the date of the overpayment to the date of such enactment."

(b) If any return required by section 304 of the Revenue Act of 1926 was filed more than three years before the enactment of this Act (except in cases where a petition for redetermination of a deficiency has been filed with the Board of Tax Appeals within the time prescribed in section 308) the credit for estate, inheritance, legacy, or succession taxes shall be determined as if this section had not been enacted.

Sec. 402. Revenue Act of 1932. (Pertaining to additional estate tax.)

(a) The credit provided in section 301(c) of the Revenue Act of 1926, as amended (80 per centum credit), shall not be allowed in respect of such additional tax.

Art. 9. (a) **Credit for gift tax.**—The estate is entitled with certain limitations to credit against the estate tax for Federal gift tax paid by the decedent in respect of property included in his gross estate.

(1) *Credit against estate tax imposed by the Revenue Act of 1926.*—In accordance with the provisions of section 301 (b) of

the Revenue Act of 1926 as amended by section 801 of the Revenue Act of 1932 credit for gift tax paid under the Gift Tax Act of 1932 is allowed against the estate tax imposed by section 301 (a) of the Revenue Act of 1926. Such credit can not exceed an amount which bears the same ratio to the gross estate tax computed under the provisions of the Revenue Act of 1926 as the value of the property which was the subject of the gift and included in the gross estate bears to the value of the entire gross estate. For this purpose the value of the property which was the subject of the gift and included in the gross estate, is the value at the date of the gift or at the time of the decedent's death, whichever is the lower. In accordance with section 322 of the Revenue Act of 1924 as revived and extended by section 404 of the Revenue Act of 1928, credit for the entire amount of gift tax paid under the Revenue Act of 1924 in respect of property included in the gross estate is allowed against the estate tax imposed by section 301 (a) of the Revenue Act of 1926.

(2) *Credit against additional estate tax imposed by the Revenue Acts of 1932 and 1934.*—In accordance with section 402 of the Revenue Act of 1932 credit for gift tax paid under the Gift Tax Act of 1932 is allowed against the additional estate tax imposed by section 401 of the Revenue Act of 1932. Such credit can not exceed an amount which bears the same ratio to the additional gross estate tax computed under the provisions of the Revenue Act of 1932 as the value of the property which was the subject of the gift and included in the gross estate bears to the value of the entire gross estate. For this purpose the value of the property which was the subject of the gift and included in the gross estate, is the value at the time of the gift or at the time of the death, whichever is the lower. Furthermore, such credit can not exceed the difference between the total amount of the gift tax paid in respect of the property included in the gross estate and the amount of the credit for gift tax paid under the Gift Tax Act of 1932 allowed against the estate tax imposed by the Revenue Act of 1926. No credit for gift tax paid under the Revenue Act of 1924 is allowed against the additional estate tax imposed by the Revenue Act of 1932.

In accordance with section 322 of the Revenue Act of 1924 credit for gift tax paid under the Revenue Act of 1924 is allowed against the estate tax imposed by the Revenue Act of 1924.

If only a part of the property subjected to a gift tax during a calendar year is included in the decedent's gross estate for the purpose of the estate tax, gift tax paid in respect of the property included in the gross estate is an amount which bears the same ratio to the total gift tax paid for such calendar year as the value of such part of the property bears to the total amount of the net gifts (computed without deduction of the specific exemption) for such year. For the purpose of computing this proportion the values finally determined for the purpose of the gift tax control, irrespective of any increase or decrease in value between the date of the gift and the date of the decedent's death.

If all of the property subjected to a gift tax during a calendar year is included in the decedent's gross estate for the purpose of the estate tax, the gift tax paid in respect of the property included in the gross estate is the amount of the gift tax paid for that calendar year.

Example: On July 15, 1932, a resident donor gave his son a yacht valued at $50,000 as a wedding present. On August 15, 1932, the decedent donated $50,000 in cash to a charitable organization. On December 1, 1932, he transferred to his wife real property valued at $100,000 in contemplation of death. The total amount of gifts for the year 1932 for the purpose of the gift tax is $185,000, $5,000 for each of the three donees being excluded from the total gifts under the provisions of the Gift Tax Act. After deducting $50,000 specific exemption and $45,000 for the gift to the charitable organization, the net gifts amount to $90,000. The gift tax on the net gifts, $3,125, was paid. The donor died on December 10, 1932, and the value of the real property transferred in contemplation of death is included in his gross estate for the purpose of the estate tax. The gift tax paid in respect of the property included in the gross estate is an amount which bears the same ratio to $3,125 as $95,000 bears to $140,000, or $2,120.54. Note that $95,000 is the portion of the real property subject to gift tax ($100,000 less the excluded $5,000) and that $140,000 is the amount of the net gifts computed without deduction of the specific exemption, $50,000.

For examples illustrating the computation of credit in accordance with the limitations set forth in paragraphs (1) and (2) of this subdivision, see article 8.

(b) Credit for estate, inheritance, legacy, or succession taxes.—Under the provisions of section 301 (c) of the Revenue Act of 1926, as amended, the estate is entitled, under certain conditions, to a credit against the Federal estate tax for estate, inheritance, legacy, or succession taxes actually paid with respect to the estate of the decedent to any of the several States, Territories, or the District of Columbia. The credit allowed is limited to the estates of persons dying after the effective date of the Revenue Act of 1924. The provision of section 301 (c), prohibiting the allowance as a credit of any such taxes paid with respect to the estate of a person other than the decedent, is applicable alike to estates of persons dying after the enactment of the Revenue Act of 1924 and the Revenue Act of 1926.

The credit applying to the estates of persons dying after the effective date of the Revenue Act of 1924 and before the effective date of the Revenue Act of 1926 is limited to 25 per cent of the Federal estate tax, after the deduction of any credit for gift tax imposed by the Revenue Act of 1924. If the decedent's death occurred after the effective date of the Revenue Act of 1926, the credit is limited to 80 per cent of the tax imposed by section 301 (a) of the Revenue Act of 1926, after deduction of the credit allowed, if any, against such tax for gift taxes paid. No credit for payment of estate, inheritance, legacy, or succession taxes is allowed against the additional tax imposed by the Revenue Acts of 1932 and 1934. Credit which may be taken or allowed on account of estate, inheritance, legacy, or succession taxes paid to any State, Territory, or the District of Columbia is limited to the amount of such taxes paid in respect of property the value of which is included in the gross estate of the decedent for Federal estate tax purposes.

If the decedent died after the effective date of the Revenue Act of 1926, the taxes allowed as a credit are limited to such as were actually paid and credit therefor claimed within four years after the filing of the return, except as otherwise provided in this paragraph. If a petition was filed with the Board of Tax Appeals for the redetermination of a deficiency within the time prescribed by section 308 (see article 76), the credit is limited to such taxes as were actually paid and credit therefor claimed within four years after the filing of the return or before the expiration of 60 days after the decision of the Board becomes final. If the return was filed after, or less than three years before, the enactment of the Revenue Act of 1932 and an extension of time was granted for payment of the tax shown on the return or of a deficiency, the credit is limited to such taxes as were actually paid and credit therefor claimed within four years after the filing of the return or before the date of the expiration of the extension. If the return was filed more than three years before the enactment of the Revenue Act of 1932, except in cases in which a petition for redetermination of a deficiency has been filed with the Board of Tax Appeals within the time prescribed by section 308, the credit is limited to such taxes as were actually paid and credit therefor claimed within three years after the filing of the return. Should the executor, in accordance with the provisions of section 811 of the Revenue Act of 1932, elect to postpone the payment of the Federal estate tax attributable to a reversionary or remainder interest, the credit allowable against the Federal estate tax attributable to such interest is limited to estate, inheritance, legacy, or succession taxes attributable to such interest as are actually paid to any State, Territory, or the District of Columbia and credit therefor claimed prior to the expiration of 60 days after the termination of the precedent interest. (See article 82 (b).)

Refund based on the credit, despite the provisions of section 319, will be made if claim therefor is filed within the period provided for filing claim for credit. Such refunds will be made without interest unless the overpayment was made prior to the enactment of the Revenue Act of 1932, in which case interest upon the amount refunded is allowable on the amount of the refund at the rate of 6 per cent per annum from the date of the overpayment to the date of the enactment of the Revenue Act of 1932.

Before the Commissioner allows any credit for any estate, inheritance, legacy, or succession taxes, there must be submitted to him the following:

(1) Certificate of the proper officer of the taxing State or Territory showing: (a) the total amount of tax imposed (before adding interest and penalties and before allowing discount); (b) the amount of discount allowed; (c) the amount of penalties and interest imposed or charged; (d) the total amount actually paid in cash; and (e) the date of payment.

(2) A certificate of the above-mentioned officer showing whether (a) a claim for refund of such taxes or any part thereof is pending and (b) whether a refund of such taxes or any part thereof has been authorized. If any refund has been made, the date, the amount thereof, and a description of the property or interest in respect to which such refund was made must be shown in the certificate.

The evidence described above should be filed with the return, but if that is not convenient or possible, then it should be submitted to the investigating officer verifying the return, or, if the investigation of the estate has been completed, it should be transmitted to the Commissioner.

The Commissioner may require the submission of such additional proof as is deemed necessary to establish the right to the credit. For example, he may require an itemized list of the property in respect to which any such taxes were imposed, certified by the officer having custody of the records pertaining to such taxes for the State or Territory involved, and an affidavit of the executor stating whether any litigation has been instituted, or appeal taken, or any such action is designed or contemplated by him, or, to his knowledge, by any beneficiary or other person, the final determination of which may affect the amount of such State or Territorial taxes.

If, subsequent to the allowance of a credit by the Commissioner, a refund is made of any such estate, inheritance, legacy, or succession taxes, the executor, or if the refund is made after the executor's discharge, then any person or persons to whom the refund is made, is required to advise the Commissioner of the date of the refund and the amount thereof, furnish the Commissioner with a description of the property or interest in respect to which the refund was made, and pay the Federal estate tax, if any, due as a result of such refund, together with interest.

GROSS ESTATE—GENERAL

SEC. 302. The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—

(a) To the extent of the interest therein of the decedent at the time of his death.

SEC. 404. Revenue Act of 1934.

So much of section 302 of the Revenue Act of 1926 as reads as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated" is amended to read as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside the United States".

ART. 10. **Character of interests included.**—It is designed by the foregoing provision of the statute that there shall be included in the gross estate the value of all property of the decedent whether real or personal, tangible or intangible, the beneficial ownership of which was in the decedent at the time of his death, except real property situated outside the United States.

If the decedent died prior to 10.25 a. m., eastern standard time, February 26, 1926, the test which determines that the value of a given interest is to be included in the gross estate under the provisions of subdivisions (a) of the corresponding sections of the Revenue Acts prior to that of 1926, is whether the property, after death, shall be subject to: (1) Payment of the charges against the estate; (2) payment of the expenses of administration; and (3) distribution as a part of the estate. This test is not applicable if the decedent died subsequent to the effective date of the Revenue Act of 1926.

ART. 11. **Specific property to be included.**—The value of all real property situated in the United States and owned by the decedent at the date of his death should be included in the gross estate, whether the decedent was a resident or a nonresident, a citizen or an alien, and whether the property came into the possession and control of the executor or administrator or passed directly to heirs or devisees. If the decedent was a resident, or a nonresident citizen who died after the enactment of the Revenue Act of 1934, the value of all

personal property owned by him should be included, wherever situated. If the decedent was a nonresident alien, or, regardless of citizenship, was a nonresident who died prior to the enactment of the Revenue Act of 1934, the value of so much of his personal property as had its situs in the United States at the time of his death should be included, and the value of his entire gross estate, wherever situated, should be disclosed, if deductions are claimed. (See articles 52 to 54.) As to the situs of the personal property of nonresident alien decedents, or nonresident decedents, regardless of citizenship, who died prior to the enactment of the Revenue Act of 1934, see article 50.

The value of a vested remainder should be included in the gross estate. Nothing should be included, however, on account of a contingent remainder in the case the contingency does not happen in the lifetime of the decedent, and the interest consequently lapses at his death. Nor should anything be included on account of an interest or an estate limited for the life of the decedent. There should be included, however, the value of a reversionary interest retained by the decedent, which reverts upon the termination of a particular estate or in case of his prior death passes to others. There should also be included the value of an annuity payable to, or an interest or an estate vested in, the decedent for the life of another person who survives him. For rules in valuing such remainders, annuities, and interests or estates *pur autre vie*, see article 13, subdivision (10).

A cemetery lot owned by the decedent is part of his gross estate, but its value is limited to the salable value of such part of it as is not designed for the interment of the decedent or members of his family. Salary due the decedent, and rents and interest accrued at the time of his death, whether then payable or not, and unpaid matured coupons, should be included. The value of notes or other claims held by the decedent should be included, though they are canceled by his will. As to the valuation of notes and claims, see article 13, subdivisions (1) and (5). All bonds, including Federal, State, and municipal, should be included. (See article 12 for manner of listing and describing property returned.) In case the decedent was a nonresident alien not engaged in business in the United States, bonds, notes, and certificates of indebtedness of the United States, and bonds of the War Finance Corporation, beneficially owned by such alien, should not be included.

Dividends on either common or preferred stock should be included only if declared prior to the decedent's death, and not reflected in the market value of the stock on the day of death. Thus dividends. both declared and payable to holders of record on a date prior to the decedent's death should be included, provided the stock is valued " ex dividend " on the date of death.

Example: A 5 per cent dividend upon stock is declared March 1, payable on April 1, to stockholders of record on March 15. If the death occurred on March 10, and the market value on that day was 90, the value to be returned for both stock and dividend is 90, the dividend being reflected in the market value of the stock. If the death occurred on March 20, the dividend is not reflected in the market value, and must be returned in addition to the market value of the stock on March 20.

ART. 12. **Description of property listed on return.**—In listing upon the return the property constituting the gross estate (other than household and personal effects, as to which see subdivision (9) of article 13), the description thereof should be such that the property may be readily identified. Thus, a legal description should be given of each parcel of real estate, and if located in a city the name of street and number, its area, and, if improved, a short statement of the character of the improvements. Description of bonds should include number held, principal amount, name of obligor, date of maturity, rate of interest, date or dates on which interest is payable, series number if there is more than one issue, the exchange upon which listed, or the principal business office of the corporation, if unlisted. Description of stocks should include number of shares, whether common or preferred, and, if preferred, what issue thereof, par value, quotation at which returned, exact name of corporation, and, if the stock is unlisted, the location of the principal business office and State in which incorporated and the date of incorporation. If a listed security, state principal exchange upon which sold. Description of notes should include name of maker, date on which given, date of maturity, amount of principal, amount of principal unpaid, rate of interest and whether simple or compound, date to which interest has been paid and amount of unpaid interest. Description of land contracts received should include name of vendee, date of contract, description of property, sale price, initial payment, amounts of installment payments, unpaid balance of principal and accrued interest, interest rate and date prior to decedent's death to which interest had been paid. Description of bank accounts should disclose name and address of depository, amount on deposit, whether a checking, savings, or a time-deposit account, rate of interest, if any payable, amount of interest accrued and payable, and serial number. Description of life insurance should give the name of the insurer, number of policy, face value, name of beneficiary, and amount paid or payable thereunder. In describing an annuity, the name and address of the grantor of the annuity should be given, or if payable out of a trust or other funds such a description as will fully identify it. If payable for a term of years, the duration of the term and the date on which it began should be given, and if payable for the life of a person other than the decedent, the date of birth of such person should be stated. Judgments should be described by giving the title of the cause and the name of the court in which rendered, date of judgment, name and address of judgment debtor, amount of judgment, rate of interest to which subject, whether any payments have been made thereon, and, if so, when and in what amounts.

VALUATION OF PROPERTY

ART. 13. **Valuations.**—(1) *General.*—The value of all property includible in the gross estate is the fair market value thereof at the time of decedent's death. The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell. The fair market value of a particular kind of property includible in the gross estate is not to be determined by a forced sale price or by an estimate of what a whole block or aggregate would fetch if placed upon the market at one and the same time. Such value is to be determined by ascertaining as a basis the fair market value at the time of the decedent's death of each unit of the property. For example, in the case of shares of stock or bonds, such unit of property is a share or a bond. All relevant facts and elements of value as of the time of the decedent's death should be considered in every case. Depreciation or appreciation in value subsequent to the time of the decedent's death are not relevant factors and will not be considered.

(2) *Real estate.*—The property should not be returned at the local assessed value thereof unless such value represents the fair market value as of the date of decedent's death. (See article 12 for manner of listing and describing real estate.)

(3) *Stocks and bonds.*—The value at the date of the decedent's death in the case of stocks and bonds, within the meaning of the statute, is the fair market value per share or bond on the date of death.

The value of stocks and bonds listed upon a stock exchange shall be obtained by taking the mean between the highest and lowest quoted selling prices upon the date of death. If the decedent died on a Sunday or a legal holiday, the transactions of the next previous business day will govern. If there were no sales on the date of death, the value shall be determined by taking the mean between the highest and lowest sales upon the nearest date either before or after the date of death, if within a reasonable period thereof. If the security was listed upon more than one exchange, the records of the exchange where the security is principally dealt in should be employed. In valuing listed stocks and bonds the executor should observe care to consult accurate records to obtain values as of the date of death.

If the securities are not listed upon an exchange, but are dealt in through brokers, or have a market, the value shall be determined by taking the mean between the highest and lowest selling prices as of the date of death, or, if there were no sales on that date, of the nearest date either before or after the date of death upon which sales were made, if within a reasonable period. If quotations are obtained from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the executor should preserve in his files the letters furnishing such quotations or evidence of sale for inspection when the return is verified by an investigating officer.

In the case securities are quoted on a bona fide bid and asked basis, and actual sales are not available, the mean between the bid and asked prices as of the date of death, or the nearest date thereto if within a reasonable time thereof, will be accepted as the value.

In the case of the stock of a close corporation, the value shall be determined on the basis of the company's net worth, earning power, and dividend-paying capacity, and all other relevant factors bearing upon the value of the stock. Complete financial and other data upon which the estate bases its valuation should be submitted in duplicate with the return. In the case of the stock of other corporations where the shares are not quoted on a bona fide bid and asked basis and no bona fide sales thereof have been made within a reasonable time of the decedent's death, the value should be determined and supported in the manner indicated in this paragraph.

In the case of corporate or other bonds which are not quoted on a bona fide bid and asked basis and if no bona fide sales thereof have been made within a reasonable time of the decedent's death, the value is to be determined by giving consideration to the soundness of the security, the interest yield, the date of maturity, and other relevant factors.

In exceptional cases in which it is established by clear and convincing evidence that the value per bond or share of any security determined upon the basis of selling or bid and asked prices as herein provided does not reflect the fair market value thereof, other relevant facts and elements of value will be considered in determining the fair market value. The size of holdings of any security to be included in the gross estate is not a relevant factor and will not be considered in such determination.

The full value of securities pledged to secure a loan should be included in the gross estate. If the decedent had a trading account with a broker, all securities belonging to the decedent and held by the broker at the date of death must be included at their fair market value on that date. Securities purchased on margin for the decedent's account and held by the broker should also be returned at their fair market value on the date of death. The amount of the decedent's indebtedness to the broker or other person with whom securities were pledged will be allowed as a deduction from the gross estate in accordance with articles 29, 36, and 52. (See article 12 for manner of listing and describing stocks and bonds.)

(4) *Interest in business.*—Care should be taken to arrive at an accurate valuation of any business in which the decedent was interested, whether as partner or proprietor. A fair appraisal as of the date of death should be made of all the assets of the business, tangible and intangible, including good will, and the business should be given a net value equal to the amount which a willing purchaser, whether an individual or corporation, would pay therefor to a willing seller in view of the net value of the assets and the demonstrated earning capacity. Special attention should be given to fixing an adequate figure for the value of the good will of the business in all cases in which the decedent has not agreed, for an adequate and full consideration in money or money's worth, that his interest therein shall pass at his death to his surviving partner or partners.

The factors hereinbefore stated relative to the valuation of other property, if applicable, will be considered in determining the valuation of an interest in a business held as proprietor or partner. All evidence bearing upon such valuation should be submitted with the return, including copies of reports in any case in which examinations of the business have been made by accountants, engineers, or any technical experts as of or near the date of decedent's death.

(5) *Notes, secured and unsecured.*—The value of notes, whether secured or unsecured, will be presumed to be the amount of unpaid principal, plus accrued interest to the date of decedent's death, unless the executor establishes a lower value, or it is shown that they are worthless. Unless returned at face value, plus accrued interest, it must be shown by satisfactory evidence that the note is worth less than the unpaid amount because of the interest rate, or date of maturity, or other cause, or that it is uncollectible, either in whole or in part, by reason of the insolvency of the party or parties liable, or for other cause, and that the property, if any, pledged or mortgaged as security is insufficient to satisfy it.

(6) *Cash on hand or on deposit.*—The amount of cash belonging to the decedent, either in his possession at the date of death or in the possession of another, should be included, together with such interest, if any, accrued thereon at the date of the decedent's death. Bank accounts should be returned in the amount on deposit to the credit of the decedent at the date of death. If checks then outstand-

ing, given in discharge of bona fide, legal obligations of the decedent, incurred for an adequate and full consideration in money or money's worth, and not as transfers coming within the provisions of section 302 (c) or (d), are subsequently honored by the bank and charged to the account, the balance remaining may be returned, provided the payments effected thereby are not claimed as deductions from the gross estate. Interest which the bank agreed to pay upon condition that the money remain on deposit for a period of time which expired subsequent to the decedent's death, should not be included.

(7) *Intangibles.*—Intangibles should be valued in accordance with the rule laid down under subdivision (1) of this article.

(8) *Other property.*—With respect to all other property, excepting household and personal effects, concerning which see subdivision (9) of this article, the executor should ascertain and return the fair market value thereof as of the date of decedent's death. Livestock, farm machinery, harvested and growing crops should be itemized and the value of each item separately returned.

(9) *Household and personal effects.*—All household and personal effects of the decedent should be included at the price which a willing buyer would pay to a willing seller. A room by room itemization is desirable. All the articles should be named specifically, except that a number of articles contained in the same room, none of which has a value in excess of $50, may be grouped. A separate value should be given for each article named. The executor may furnish, in lieu of an itemized list, a sworn statement, in duplicate, setting forth the aggregate value of the property as appraised by a competent appraiser, or appraisers of recognized standing and ability, or by a dealer or dealers in the class of personalty involved.

If, however, there is included among the household and personal effects, articles having marked artistic or intrinsic value of a total value in excess of $2,000, such as jewelry, silverware, paintings, etchings, engravings, antiques, books, statuary, vases, oriental rugs, collections of coins and stamps, the appraisal of an expert or experts, under oath, should be filed with the return on Form 706, accompanied by the affidavit, in duplicate, of the executor as to the completeness of the itemized list of such property and of the disinterested character and the qualifications of the appraiser or appraisers.

If it is desired to effect distribution or sale of any portion of the household or personal effects in advance of an investigation by a special officer of the Bureau of Internal Revenue, information to that effect should be given to the internal revenue agent in charge for the division wherein the decedent was domiciled at the date of his death, or if such household and personal effects were not located in such division, then to the Commissioner. The statement to the internal revenue agent in charge should be accompanied by a verified appraisal of such property and an affidavit of the executor as to the completeness of the list of such property and the qualifications of the appraiser, as already referred to, but such an appraisal and affidavit need not be in duplicate. If a personal inspection by a special officer of the Bureau is not deemed necessary, the executor will be so advised. This procedure is designed to facilitate disposition of such property and to obviate future expense and inconvenience to the estate by affording the Commissioner an opportunity to make an investigation should one be deemed necessary prior to sale or distribution. (For location of the offices of the internal revenue agents in charge and the territory embraced in each division, see Appendix.)

If expert appraisers are employed care should be taken to see that they are reputable and of recognized competency to appraise the particular class of property involved. In the appraisal, books in sets by standard authors should be listed in separate groups. In listing paintings having artistic value, the size, subject, and artist's name should be stated. In the case of oriental rugs, the size, make, and general condition should be given. Sets of silverware should be listed in separate groups. Groups or individual pieces of silverware should be weighed and the weights given in troy ounces. In arriving at the value of silverware, the appraisers should take into consideration its antiquity, utility, desirability, condition, and obsolescence.

(10) *Annuities, life, remainder, and reversionary interests.*—In the case the decedent was entitled to receive an annuity of a definite amount during the lifetime of another person, payable at the end of annual periods, its present worth at the time of the decedent's death must be computed upon the basis of the value of a life annuity at the age of the other person. The table marked "A," a part of this subdivision, should be used for this computation. The amount payable annually should be multiplied by the figure in column 2 of the table opposite the number of years in column 1 nearest to the actual age of the other person.

Example: The decedent received under the terms of his father's will an annuity of $10,000 for the life of his elder brother. The brother at the decedent's death was 40 years 8 months old. By reference to the table the figure in column 2 opposite 41 years, the number nearest to the brother's age, is found to be 14.86102. The present worth of the annuity is therefore $148,610.20.

If the decedent was entitled to receive the annuity during a specified number of years, the table marked "B," a part of this subdivision, should be used.

Example: The decedent received under the terms of his father's will an annuity of $10,000 for a period of 20 years, 15 of which had expired at the decedent's death. By reference to the table it is found that the figure in column 2 opposite 5 years, the unexpired portion of the 20-year period, is 4.45182. The present worth of the annuity is, therefore, $44,518.20 (4.45182 multiplied by 10,000).

If the decedent was entitled to receive the entire income of certain property during the life of another person, or for a term of years, and the annual rate of income for a period equal to or exceeding the life expectancy of such other person or such term of years, is fixed or definitely determinable at the time of the decedent's death, then the present worth of decedent's right to such income should be computed as explained above in the case of an annuity.

Example: The decedent's father placed $100,000 in trust, with directions that it be invested in State and municipal bonds and the entire income paid to the decedent during the life of his elder brother, who was 41 years old at the decedent's death. Before the decedent's death the money was invested in State and municipal bonds maturing at dates beyond such elder brother's life expectancy, and yielding annually an income of $5,000. In this case the rate of income is definitely determinable. By reference to the table, it is found that the present worth of an income of $5,000, dependent upon the life of a person 41 years of age, is $74,305.10 (14.86102 multiplied by 5,000).

If the rate of annual income is not determinable, or where the decedent was entitled merely to the personal use of nonincome-bearing property, a hypothetical annuity at a rate of 4 per cent of the value of the property should be made the basis of the calculation.

Example: The decedent died before a fund of $100,000, of which he was entitled to receive the income during the life of a person 41 years old, had been invested by the trustees. The value of a hypothetical annuity of $4,000, dependent upon the life of such a person, is indicated by the table to be $59,444.08 (14.86102 multiplied by 4,000).

If the decedent had a remainder interest in property subject to the life estate of another, and such interest constituted an asset of his estate, the present worth of the remainder interest at the time of death should be obtained by multiplying the value of the property at the time of death by the figure in column 3 of Table A opposite the number of years nearest to the age of the life tenant. If the remainder interest is subject to an estate for a term of years Table B should be used.

Example: The decedent was entitled to receive property worth $50,000 upon the death of his elder brother, to whom the income for life had been bequeathed. The brother at the time of the decedent's death was 31 years old. By reference to the table it is found that the figure in column 3, opposite 31 years, is 0.31262. The present worth of the remainder interest is, therefore, $15,631.

If an annuity or the income which the decedent was entitled to receive is payable semiannually, quarterly, or monthly, the value of the annuity or of the right to receive the income should be determined by multiplying the aggregate amount to be paid within a year by the figure in column 2 of Table A opposite the number of years in column 1 nearest the actual age of the person whose life measures the annuity or the right to the income, or the figure in column 2 of Table B opposite the number of years the annuity or income is payable, as the case may be, and then multiplying the product by 1.01820 for monthly payments, by 1.01488 for quarterly payments, or by 1.00990 for semiannual payments.

Example: If, in the first example above given, the annuity is payable semiannually, the factor 14.86102, should be multiplied by 1.00990 and the product multiplied by 10,000. The present worth of the annuity is, therefore, $150,081.44 (14.86102×1.00990×10,000).

If the first payment of an annuity for the life of an individual is to be paid at once, the value of the annuity is the sum of the first payment plus the present worth of a similar annuity, the first payment of which is not to be made until the end of the first period.

Example: The decedent was entitled to receive an annuity of $50 a month payable during the life of another. The decedent died on the day payment is due. At the date of his death the person whose life measures the duration of the annuity is then 50 years of age. The value of the annuity at the date of decedent's death is $50 plus the product of $50×12×12.47032 (see Table A) ×1.01820 (see preceding paragraph), or $7,668.37 [$50 plus ($50×12×12.47032×1.01820)].

If the first payment of an annuity for a definite number of years is to be paid at once, the applicable factor is the product of the factor shown in Table B multiplied by 1.02154 for monthly payments, by 1.02488 for quarterly payments, by 1.03980 for semiannual payments, or by 1.04 for annual payments. The decedent was the beneficiary of an annuity of $50 a month. On the day a payment was due, the decedent died. There were 300 payments to be made, including the payment due. The value of the annuity as of the date of decedent's death is the product of $50×12×15.62208 (see Table B) ×1.02154 (see preceding paragraph), or $9,575.15 ($50×12×15.62208×1.02154).

If the annuity is payable during the life of an individual and in any event for a definite number of years, or for more than one life, or in any other manner rendering inapplicable Table A or Table B (also a part of this subdivision), the case may be stated to the Commissioner, who will thereupon make the computation and advise the executor thereof. In making such calculations, when life interests or remainders upon life interests are involved, use will be made of the Actuaries' or Combined Experience Table of Mortality, as extended (that being the basis of Table A), with interest at 4 per cent per annum compounded annually.

Table A

Table, single life, 4 per cent, showing the present worth of an annuity, or a life interest, and of a reversionary interest

1	2	3	1	2	3
Age	Annuity, or present value of $1 due at the end of each year during the life of a person of specified age	Reversion, or present value of $1 due at the end of the year of death of a person of specified age	Age	Annuity, or present value of $1 due at the end of each year during the life of a person of specified age	Reversion, or present value of $1 due at the end of the year of death of a person of specified age
	Annuity	*Reversion*		*Annuity*	*Reversion*
0	$14. 72829	$0. 39507	51	$12. 17919	$0. 49311
1	17. 30771	. 29586	52	11. 88408	. 50446
2	18. 69578	. 24247	53	11. 58531	. 51595
3	19. 15901	. 22465	54	11. 28325	. 52757
4	19. 41226	. 21491	55	10. 97789	. 53931
5	19. 55301	. 20950	56	10. 66982	. 55116
6	19. 61731	. 20703	57	10. 35931	. 56310
7	19. 62502	. 20673	58	10. 04630	. 57514
8	19. 61097	. 20727	59	9. 73131	. 58726
9	19. 53413	. 21022	60	9. 41474	. 59943
10	19. 45359	. 21332	61	9. 09765	. 61163
11	19. 36943	. 21656	62	8. 78052	. 62383
12	19. 28184	. 21993	63	8. 46412	. 63600
13	19. 19065	. 22344	64	8. 14888	. 64812
14	19. 09590	. 22708	65	7. 83552	. 66017
15	18. 99764	. 23086	66	7. 52476	. 67212
16	18. 89569	. 23478	67	7. 21699	. 68397
17	18. 79010	. 23884	68	6. 91298	. 69565
18	18. 68070	. 24305	69	6. 61301	. 70719
19	18. 56751	. 24740	70	6. 31716	. 71857
20	18. 45038	. 25191	71	6. 02612	. 72976
21	18. 32932	. 25656	72	5. 74003	. 74077
22	18. 20416	. 26138	73	5. 45928	. 75157
23	18. 07471	. 26636	74	5. 18402	. 76215
24	17. 94097	. 27150	75	4. 91463	. 77251
25	17. 80274	. 27682	76	4. 65125	. 78264
26	17. 65984	. 28231	77	4. 39383	. 79254
27	17. 51224	. 28799	78	4. 14286	. 80220
28	17. 35968	. 29386	79	3. 89858	. 81159
29	17. 20225	. 29991	80	3. 66071	. 82074
30	17. 03961	. 30617	81	3. 42900	. 82965
31	16. 87176	. 31262	82	3. 20258	. 83836
32	16. 69846	. 31929	83	2. 98024	. 84691
33	16. 51964	. 32617	84	2. 76106	. 85534
34	16. 33503	. 33327	85	2. 54366	. 86371
35	16. 14437	. 34060	86	2. 32795	. 87200
36	15. 94755	. 34817	87	2. 11384	. 88024
37	15. 74427	. 35599	88	1. 90115	. 88842
38	15. 53421	. 36407	89	1. 69107	. 89650
39	15. 31722	. 37241	90	1. 48540	. 90441
40	15. 09295	. 38104	91	1. 28432	. 91214
41	14. 86102	. 38996	92	1. 09024	. 91961
42	14. 62122	. 39918	93	. 90647	. 92667
43	14. 37356	. 40871	94	. 73687	. 93320
44	14. 11860	. 41852	95	. 58435	. 93906
45	13. 85713	. 42857	96	. 46182	. 94378
46	13. 58958	. 43886	97	. 36698	. 94742
47	13. 31698	. 44935	98	. 24038	. 95229
48	13. 03942	. 46002	99	. 00000	. 96154
49	12. 75716	. 47088			
50	12. 47032	. 48191			

Table B

Table showing the present worth at 4 per cent of an annuity for a term-certain, and of a reversionary interest postponed for a term-certain

1	2	3	1	2	3
Number of years	Present worth of an annuity of $1, payable at the end of each year, for a certain number of years	Present worth of $1, payable at the end of a certain number of years	Number of years	Present worth of an annuity of $1, payable at the end of each year, for a certain number of years	Present worth of $1, payable at the end of a certain number of years
	Annuity	*Reversion*		*Annuity*	*Reversion*
1	$0. 96154	$0. 961538	16	$11. 65229	$0. 533908
2	1. 88609	. 924556	17	12. 16567	. 513373
3	2. 77509	. 888996	18	12. 65929	. 493628
4	3. 62989	. 854804	19	13. 13394	. 474642
5	4. 45182	. 821927	20	13. 59032	. 456387
6	5. 24214	. 790314	21	14. 02916	. 438834
7	6. 00205	. 759918	22	14. 45111	. 421955
8	6. 73274	. 730690	23	14. 85684	. 405726
9	7. 43533	. 702587	24	15. 24696	. 390121
10	8. 11089	. 675564	25	15. 62208	. 375117
11	8. 76047	. 649581	26	15. 98277	. 360689
12	9. 38507	. 624597	27	16. 32958	. 346816
13	9. 98565	. 600574	28	16. 66306	. 333477
14	10. 56312	. 577475	29	16. 98371	. 320651
15	11. 11839	. 555265	30	17. 29203	. 308319

GROSS ESTATE—DOWER AND CURTESY

SEC. 302. The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—* * *

(b) To the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower, curtesy, or by virtue of a statute creating an estate in lieu of dower or curtesy; * * *

SEC. 404. Revenue Act of 1934.

So much of section 302 of the Revenue Act of 1926 as reads as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated" is amended to read as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside the United States".

ART. 14. **Dower and curtesy.**—The provision of section 302 (b) includes dower and curtesy and all interests created by statute in lieu thereof, although the estate or interest so created is different in character. The effect of the provision is to require the inclusion of the full value of the property, without deduction of the value of the interest of the surviving husband or wife, and without regard to the time when the right to such an interest arose. This provision does not apply to the estate of any decedent dying after September 8, 1916, and prior to 6.55 p. m., February 24, 1919 (the effective date of Title IV of the Revenue Act of 1918), unless the property has its situs in a jurisdiction wherein dower, curtesy, or the statutory interest in lieu thereof is subject to the payment of charges against the estate, the expenses of its administration, and is subject to distribution as part of the estate, or unless there has been an election to take property devised or bequeathed in lieu of dower, curtesy, or such statutory interest, and the property so taken has its situs in a jurisdiction by the laws of which it is subject to the payment of such charges and expenses, and to distribution as a part of the estate.

GROSS ESTATE—TRANSFERS BY DECEDENT IN HIS LIFETIME

> SEC. 302. The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated— * * *
>
> (c) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth. Where within two years prior to his death but after the enactment of this Act and without such a consideration the decedent has made a transfer or transfers, by trust or otherwise, of any of his property, or an interest therein, not admitted or shown to have been made in contemplation of or intended to take effect in possession or enjoyment at or after his death, and the value or aggregate value, at the time of such death, of the property or interest so transferred to any one person is in excess of $5,000, then, to the extent of such excess, such transfer or transfers shall be deemed and held to have been made in contemplation of death within the meaning of this title. Any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death but prior to the enactment of this Act, without such consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title;
>
> (d) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power, either by the decedent alone or in conjunction with any person, to alter, amend, or revoke, or where the decedent relinquished any such power in contemplation of his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth. * * *
>
> (i) If any one of the transfers, trusts, interests, rights, or powers enumerated and described in subdivisions (c), (d), and (f) of this section is made, created, exercised, or relinquished for a consideration in money or money's worth, but is not a bona fide sale for an adequate and full consideration in money or money's worth, there shall be included in the gross estate only the excess of the fair market value at the time of death of the property otherwise to be included on account of such transaction, over the value of the consideration received therefor by the decedent.

Joint Resolution of March 3, 1931 (Public, No. 131—Seventy-first Congress):

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of subdivision (c) of section 302 of the Revenue Act of 1926 is amended to read as follows:

"To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after his death, including a transfer under which the transferor has retained for his life or any period not ending before his death (1) the possession or enjoyment of, or the income from, the property or (2) the right to designate the persons who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth."

SEC. 803. Revenue Act of 1932.

(a) Section 302(c) of the Revenue Act of 1926, as amended by the Joint Resolution of March 3, 1931, is amended to read as follows:

"(c) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after his death, or of which he has at any time made a transfer, by trust or otherwise, under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (1) the possession or enjoyment of, or the right to the income from, the property, or (2) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth. Any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death without such consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title."

SEC. 804. Revenue Act of 1932.

Section 303(d) of the Revenue Act of 1926 is amended by adding at the end thereof a new sentence to read as follows:

"For the purposes of this title, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration 'in money or money's worth'."

SEC. 401. Revenue Act of 1934.

Section 302(d) of the Revenue Act of 1926 is amended to read as follows:

"(d) (1) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power, either by the decedent alone or in conjunction with any person, to alter, amend, or revoke, or where the decedent relinquished any such power in contemplation of his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth.

"(2) For the purposes of this subdivision the power to alter, amend, or revoke shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the alteration, amendment, or revocation takes effect only on the expiration of a stated period after the exercise of the power, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised. In such cases proper adjustment shall be made representing the interests which would have been excluded from the power if the decedent had lived, and for such purpose if the notice has not been given or the power has not been exercised on or before the date of his death, such notice shall be considered to have been given, or the power exercised, on the date of his death.

"(3) The relinquishment of any such power, not admitted or shown to have been in contemplation of the decedent's death, made within two years prior to his death without such a consideration and affecting the interest or interests (whether arising from one or more transfers or the creation of one or more trusts) of any one beneficiary of a value or aggregate value, at the time of such death, in excess of $5,000, then, to the extent of such excess, such relinquishment or relinquishments shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title;"

SEC. 404. Revenue Act of 1934.

So much of section 302 of the Revenue Act of 1926 as reads as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated" is amended to read as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside the United States".

ART. 15. **Transfers during life.**—The following transfers made by the decedent during his life, by trust or otherwise, other than bona fide sales for an adequate and full consideration in money or money's worth, are subject to the tax: (1) transfers subsequent to the enactment of the Revenue Act of 1916 made in contemplation of death (see article 16); (2) transfers resulting from an arrangement, whether made before or after the enactment of the Revenue Act of 1916, if title was not to pass from the decedent to the beneficiary unless the latter survived the former, or title, having passed, was to be divested and the property returned to the decedent if the beneficiary predeceased him (see article 17); (3) transfers made after the enactment of the Revenue Act of 1916 in the case possession or enjoyment was retained by the decedent (see article 18 and the exception stated therein); (4) transfers in which the decedent retains, either alone or in conjunction with any person or persons, the right to designate who shall possess or enjoy the property or the income thereof, if made after the enactment of the Revenue Act of 1916 (see article 19 and the exceptions stated therein); and (5) transfers made before or after the enactment of the Revenue Act of 1916 in which the enjoyment of the transferred property was subject at decedent's death to any change through the exercise, either by decedent alone or with other person or persons, of a power to alter, amend, or revoke, or if after the enactment of the Revenue Act of 1916 such a power was relinquished by the decedent in contemplation of death (see articles 20 and 21).

The value of transferred property includible in the gross estate is the value at the date of decedent's death. If a portion only of the property is so transferred as to come within the terms of the statute, only a corresponding proportion of the value of the property should be included in the gross estate. If the transferee makes additions to the property, or betterments, the enhanced value of the property at date of decedent's death, due to such additions or betterments, should not be included.

To constitute a bona fide sale for an adequate and full consideration in money or money's worth it must have been made in good faith, and the price must have been an adequate and full equivalent, and reducible to a money value. If the price was less than an adequate and full equivalent only the excess of the fair market value of the property, as of the date of the decedent's death, over the price received by the decedent should be included in the gross estate. For the purposes of the estate tax a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, is not to any extent a consideration in money or money's worth.

In the case a transfer, by trust or otherwise, was made by a written instrument, duplicate copies thereof should be filed with the return. If of public record, one of the copies should be certified; if not of record, one copy should be verified. If the decedent was a nonresident, only one copy, certified or verified, need be filed.

All transfers made by the decedent during his life of an amount of $5,000 or more, except bona fide sales for an adequate and full consideration in money or money's worth, must be disclosed in the return, whether the executor regards such transfers as subject to the tax or not. If the executor believes that such a transfer is not subject to the tax a brief statement of the pertinent facts should be made.

Art. 16. Transfers in contemplation of death.—Transfers in contemplation of death made by the decedent after September 8, 1916, other than bona fide sales for an adequate and full consideration in money or money's worth, must be included in the gross estate. A transfer in contemplation of death is subject to the tax although the decedent parted absolutely and immediately with his title to, and possession and enjoyment of, the property.

A transfer in contemplation of death is a disposition of property prompted by the thought of death. The phrase "contemplation of death" as used in the statute is not limited to contemplation of imminent death or to an apprehension that death is near at hand. Death must be "contemplated," that is, the motive which induces the transfer must be such that leads to testamentary disposition. A gift inter vivos which springs from a motive essentially associated with life rather than with death is not made in contemplation of death.

As the phrase "transfer in contemplation of death" is applicable to many varying transactions, the circumstances of each case must be examined to ascertain the motive which induced the decedent to make the transfer. If the transfer results from mixed motives, one of which is the thought of death, the more compelling motive controls. A condition of the mind or body of the transferor (whether occasioned by old age or disease) which naturally prompts a testamentary disposition to a proper object of his bounty, will be considered a decisive test of contemplation of death in the absence of proof of the existence of purposes associated with life as the dominant motive for the transfer.

Any transfer without an adequate and full consideration in money or money's worth, made by the decedent within two years of his death, of a material part of his property in the nature of a final disposition or distribution thereof, is, unless shown to the contrary, deemed to have been made in contemplation of death. This provision applies even though the decedent died subsequent to the effective date of the Revenue Act of 1926 and prior to the effective date of the Revenue Act of 1932. (The conclusive presumption of contemplation of death as described in the second sentence of section 302 (c) has been held to be void by the Supreme Court of the United States.)

If the executor contends that the value of a transfer of $5,000 or more made by the decedent subsequent to September 8, 1916, should not be included in the gross estate because he considers that such transfer was not made in contemplation of death, he should file sworn statements with the return, in duplicate, of all the material facts and circumstances, including those directly or indirectly indicating the decedent's motive in making the transfer and his mental and physical condition at that time, and one copy of the death certificate.

The fact that a gift was made as an advancement to be taken into account upon the final distribution of the decedent's estate is not, in and of itself, determinative of its taxability.

Art. 17. Transfers conditioned on survivorship.—The expression, "a transfer * * * intended to take effect in possession or enjoyment at or after his death," includes a transfer resulting from the execution of a written instrument or the making of an oral arrangement, without an adequate and full consideration in money or money's worth, whereby title was not to pass from the decedent to the beneficiary (or, if title passed it was to be defeated) unless he survived the decedent, and, should he not so survive, the property is to be restored to the decedent or become a part of his estate. The tax applies without regard to the time when the instrument was executed or the oral arrangement was made, whether before or after the enactment of the Revenue Act of 1916. Thus the gift of a life estate with provision made that upon the death of the life tenant the property is to be returned to the decedent, if then living, otherwise to pass to another, the value of the entire property (less the value at the decedent's death of the life estate, if such estate was then outstanding and had not been transferred by the decedent in contemplation of his death) constitutes a part of the gross estate. It is unimportant whether the decedent's interest be denominated a reversion or a possibility of reverter, and whether the interest of the remainderman is contingent or vested subject to be divested. (See article 15.)

Art. 18. Transfers with possession or enjoyment retained.—(*a*) *Transfers included.*—The statutory phrase, "a transfer * * * intended to take effect in possession or enjoyment at or after his death," includes a transfer, whether in trust or otherwise, made subject to the reservation by the decedent of the use, or the possession, or the rents or other income of the transferred property, or any part thereof, for his life, or for a period ascertainable only by reference to his death, or for a period of such duration as to evidence his intention to retain the enjoyment (in whole or in part) of the transferred property throughout his life. (See article 15.)

(*b*) *Taxability.*—Every such transfer (not amounting to a bona fide sale for an adequate and full consideration in money or money's worth), made by the decedent subsequent to September 8, 1916, is taxable, and the value of the property or interest so transferred shall be included in the gross estate of the decedent. The provisions of this subdivision do not apply (1) if the transfer was made prior to 10.30 p. m., eastern standard time, March 3, 1931, and (2) if the decedent died prior to 5 p. m., eastern standard time, June 6, 1932. See section 506 of the Revenue Act of 1934.

ART. 19. **Transfers with right retained to designate who shall possess or enjoy.**—(*a*) *Transfers included.*—The statutory phrase, "a transfer * * * intended to take effect in possession or enjoyment at or after his death," includes a transfer, by trust or otherwise, in connection with which the decedent retained, either to himself alone or in conjunction with any other person or persons, the right for his life, or for a period ascertainable only by reference to his death, or for a period of such duration as to evidence an intention that such right should continue throughout his life, to designate the person or persons who should possess or enjoy the transferred property (in whole or in part), or any of the income thereof. (See article 15.)

(*b*) *Taxability.*—Such a transfer (not amounting to a bona fide sale for an adequate and full consideration in money or money's worth), in connection with which the right so to designate is limited to possession, enjoyment, or income for the period of decedent's life, or one ascertainable only by reference to his death, or for one evidencing intent that it should extend for at least the duration of decedent's life, is taxable if made subsequent to the enactment of the Revenue Act of 1916.

If, however, the right to designate is not so limited, but is subject to such an exercise as would determine the ultimate disposition of the property or any part thereof or interest therein, then to that extent the transfer is taxable whether made before or after the enactment of the Revenue Act of 1916.

The provisions of the first paragraph of this subdivision are subject to the same exception as stated in subdivision (*b*) of article 18.

ART. 20. **Power to change enjoyment.**—The value of the property transferred, other than by a bona fide sale for an adequate and full consideration in money or money's worth, constitutes a part of the gross estate, whether the transfer was made before or after the enactment of the Revenue Act of 1916, if at the time of the decedent's death the enjoyment thereof was subject to any change through a power, exercisable either by the decedent alone or in conjunction with any person, to alter, amend, or revoke.

The power to alter, amend, or revoke is considered to exist on the date of the decedent's death though the exercise of the power is subject to a precedent giving of notice, or though the alteration, amendment, or revocation takes effect only on the expiration of a stated period after the exercise of the power, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised, or though the exercise of the power is restricted to a particular time or the happening of a particular event which has not arrived or occurred at decedent's death. In such cases, in determining the value to be included in the gross estate, the full value of the property transferred subject to the power should be discounted for the period required to elapse between the date of the decedent's death and the date upon which the alteration, amendment, or revocation could take effect. (See article 13 (10).) For the purpose of determining such period required to elapse (for instance, a power the exercise of which is restricted to a particular time which does not in fact occur until after the decedent's death), if the notice has not been given or the power exercised on or before the time of the decedent's death, such notice shall be considered to have been given, or the power exercised, on the date of decedent's death. (See article 15.)

ART. 21. **Power relinquished in contemplation of death.**—In the case property was transferred by the decedent, who reserved a power to alter, amend, or revoke the transfer, and such power was relinquished in contemplation of death subsequent to September 8, 1916, the value of the property should be included in the gross estate, unless such relinquishment constitutes a bona fide sale for an adequate and full consideration in money or money's worth. If the consideration for such relinquishment was less than an adequate and full equivalent, only the excess of the fair market value of the property as of the date of the decedent's death over the price consideration received by the decedent should be included in the gross estate. If the relinquishment of any such power, without such consideration, is not admitted or shown to have been in contemplation of death, but was made within two years prior to decedent's death, and affected the interest or interests (whether arising from one or more transfers or the creation of one or more trusts) of any one beneficiary of a value or aggregate value, at the time of such death, in excess of $5,000, then, to the extent of such excess, such relinquishment is, unless shown to the contrary, deemed to have been made in contemplation of death. (See article 15.)

GROSS ESTATE—PROPERTY HELD JOINTLY

SEC. 302. The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated— * * *

(e) To the extent of the interest therein held as joint tenants by the decedent and any other person, or as tenants by the entirety by the decedent and spouse, or deposited, with any person carrying on the banking business, in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth: *Provided*, That where such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or money's worth, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person: *Provided further*, That where any property has been acquired by gift, bequest, devise, or inheritance, as a tenancy by the entirety by the decedent and spouse, then to the extent of one-half of the value thereof, or, where so acquired by the decedent and any other person as joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants; * * *

SEC. 804. Revenue Act of 1932.

Section 303(d) of the Revenue Act of 1926 is amended by adding at the end thereof a new sentence to read as follows:

"For the purposes of this title, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration 'in money or money's worth'."

SEC. 404. Revenue Act of 1934.

So much of section 302 of the Revenue Act of 1926 as reads as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated" is amended to read as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside the United States".

ART. 22. **Property held jointly or as tenants by the entirety.**—The foregoing provisions of the statute extend to joint ownerships wherein the right of survivorship exists, regardless of when such ownerships were created. The statute specifically reaches property held jointly by the decedent and any other person or persons, or by the decedent and spouse as tenants by the entirety, or deposited with any person or institution carrying on a banking business in the name of the decedent and any other person and payable to either or the survivor, provided the decedent contributed toward the acquisition of the property so held or deposited, or acquired it by gift, bequest, devise, or inheritance. This section of the statute applies to all classes of property, whether real or personal, in the case the survivor takes the entire interest therein by right of survivorship, and no interest therein forms a part of the decedent's estate for purposes of administration. It has no reference to property held by the decedent and any other person or persons as tenants in common.

ART. 23. **Taxable portion.**—The entire value of such property is prima facie a part of the decedent's gross estate. But it is not the intent of the statute that there should be so included a greater part or proportion thereof than is represented by an outlay of funds, which, in the first instance, were decedent's own, or more than a fractional part equal to that of the other joint owner should neither have parted with any consideration in its acquirement. Facts, which in a given case bring it within any one of the exceptions enumerated in the statute, may be submitted by the executor.

Whether the value of the entire property, or only a part, or none of it, enters into the make-up of the gross estate depends upon the following considerations: (1) So much of the property (whether the whole, or a part thereof) as originally belonged to the other joint owner, and which at no time in the past had been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth, forms no part of the decedent's gross estate. (2) If the facts are otherwise the same as in (1), but the decedent paid to such other joint owner a consideration for the interest by him (the decedent) acquired in the property, then such portion of the value of the property, proportionate to the consideration so paid, constitutes a part of the gross estate. (3) If the property, or a part thereof, or a part of the consideration wherewith it was acquired, had at any time been acquired by the other joint owner from the decedent as a gift, or for less than an adequate and full consideration in money or money's worth, then such portion of the value of the entire property, proportionate to the consideration, if any, which in the first instance was paid from such other joint owner's own funds, forms no part of the gross estate. (4) If the property was acquired by the decedent and his or her surviving spouse as tenants by the entirety by gift, will, or inheritance, then but one-half of the value of the property becomes a part of the gross estate. (5) If acquired by the decedent and the other joint owner as joint tenants by gift, will, or inheritance, and their interests are not otherwise specified or fixed by law, then one-half only of the value of the property is a part of the gross estate; or, if so acquired by the decedent and two or more persons, and the interests of the several joint tenants are not otherwise determinable, then the decedent and the other joint tenants surviving him shall each be deemed the owner of an equal fractional part, and the value of one only of such fractional parts is to be included in the gross estate.

The following are given as illustrative: (*a*) If the decedent furnished the entire purchase price, the entire property should be included in the gross estate; (*b*) if the decedent furnished a part only of the purchase price, only a corresponding portion of the property should be so included; (*c*) if the decedent, prior to the acquisition of the property by himself and the other joint owner, gave the latter a sum of money which later constituted such other joint owner's entire contribution to the purchase price of the property, the entire value of the property should be included; (*d*) if the other joint owner, prior to the acquirement of the property, received from the decedent, for less than an adequate and full consideration in money or money's worth, property which thereafter became, as such, or in a converted form, part of the purchase price of the property, the value of the property to be included is to be reduced proportionately to the consideration furnished by the other joint owner in the original transaction; (*e*) if the decedent furnished no part of the purchase price, no part of the property should be included; (*f*) if the decedent and spouse acquired the property by will as tenants by the entirety, one-half of the value of the property should be included.

For the purposes of the estate tax, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, is not to any extent a consideration in money or money's worth.

GROSS ESTATE—PROPERTY PASSING UNDER POWER OF APPOINTMENT

Sec. 302. The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated— * * *

(f) To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of, or intended to take effect in possession or enjoyment at or after, his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth; and * * *.

Sec. 803. Revenue Act of 1932. * * *

(b) Section 302(f) of the Revenue Act of 1926 is amended to read as follows:

"(f) To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of or intended to take effect in possession or enjoyment at or after his death, or (3) by deed under which he has retained for his life or any period not ascertainable without reference to his death or for any period which does not in fact end before his death (A) the possession or enjoyment of, or the right to the income from, the property, or (B) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth; and" * * *

Sec. 302. * * *

(i) If any one of the transfers, trusts, interests, rights, or powers, enumerated and described in subdivisions (c), (d), and (f) of this section is made, created, exercised, or relinquished for a consideration in money or money's worth, but is not a bona fide sale for an adequate and full consideration in money or money's worth, there shall be included in the gross estate only the excess of the fair market value at the time of death of the property otherwise to be included on account of such transaction, over the value of the consideration received therefor by the decedent.

Sec. 804. Revenue Act of 1932.

Section 303(d) of the Revenue Act of 1926 is amended by adding at the end thereof a new sentence to read as follows:

"For the purposes of this title, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other martial rights in the decedent's property or estate, shall not be considered to any extent a consideration 'in money or money's worth'."

Sec. 404. Revenue Act of 1934.

So much of section 302 of the Revenue Act of 1926 as reads as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated" is amended to read as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside the United States".

Art. 24. **Property passing under general power of appointment.**—The value of all property passing under a general power of appointment must be included in the gross estate of the person exercising the power (known as the donee, or appointor) if the power is exercised by will and such donee dies after the enactment of the Revenue Act of 1918. It should be so included if the power is exercised by deed or other instrument executed subsequent to September 8, 1916, in contemplation of death. (See article 16.) It should also be so included if the power is exercised by deed or other instrument with the intent that the transfer shall take effect in possession or enjoyment at or after the death of the donee of the power. (For description of transfers included in the phrase, " intended to take effect in possession or enjoyment at or after * * * death," and the taxability thereof with reference to when made and when the death occurred, see articles 17, 18, and 19.) The statute, however, does not require inclusion in the gross estate of the value of the appointed property in the case of a bona fide sale thereof by the donee of the power for an adequate and full consideration in money or money's worth.

Only property passing under a general power should be included. Ordinarily a general power is one to appoint to any person or persons in the discretion of the donee of the power. If the donee is required to appoint to a specified person or class of persons, the property should not be included in his gross estate. If the decedent died prior to the effective date of the Revenue Act of 1918, the value of the appointed property is not to be so included. Duplicate copies of the instrument granting the power and of the instrument by which the power was exercised, one of each to be certified or verified, must be filed with Form 706 in all cases, unless the decedent was a nonresident, in which case only one copy of each instrument, certified or verified, is required.

GROSS ESTATE—INSURANCE

> Sec. 302. The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—* * *
>
> (g) To the extent of the amount receivable by the executor as insurance under policies taken out by the decedent upon his own life; and to the extent of the excess over $40,000 of the amount receivable by all other beneficiaries as insurance under policies taken out by the decedent upon his own life. * * *

Art. 25. **Taxable insurance.**—The statute provides for the inclusion in the gross estate of insurance taken out by the decedent upon his own life, as follows: (*a*) All insurance receivable by, or for the benefit of, the estate; (*b*) all other insurance to the extent that it exceeds in the aggregate $40,000.

The term " insurance " refers to life insurance of every description, including death benefits paid by fraternal beneficial societies, operating under the lodge system. Insurance is considered to be taken out by the decedent in all cases, whether or not he makes the application, if he pays the premiums either directly or indirectly, or they are paid by a person other than the beneficiary, or decedent possesses any of the legal incidents of ownership in the policy. Legal incidents of ownership in the policy include, for example: The right of the insured or his estate to its economic benefits, the power to change the beneficiary, to surrender or cancel the policy, to assign it, to revoke an assignment, to pledge it for a loan, or to obtain from the insurer a loan against the surrender value of the policy, etc. The decedent possesses a legal incident of ownership if the rights of the beneficiaries to receive the proceeds are conditioned upon the beneficiaries surviving the decedent.

Art. 26. **Insurance in favor of the estate.**—The provision requiring the inclusion in the gross estate of all insurance receivable by the executor, without any exemption, applies to policies made payable to the decedent's estate or his executor or administrator, and all insurance which is in fact receivable by, or for the benefit of, the estate. It includes insurance taken out to provide funds to meet the estate tax, and any other taxes or charges which are enforceable against the estate. The manner in which the policy is drawn is immaterial so long as there is an obligation, legally binding upon the beneficiary, to use the proceeds in payment of such taxes or charges. The time when the policy was executed and delivered is also immaterial, the proceeds being includible in the gross estate though the policy was issued prior to the enactment of the Revenue Act of 1918. If the decedent took out insurance in favor of another person or corporation as collateral security for a loan or other accommodation, and either directly or indirectly paid the premiums thereon, the insurance is considered to be receivable for the benefit of the estate. The amount of the loan outstanding at decedent's death, with interest accrued thereon to that date, will be deductible in determining the net estate. (See article 29.)

Art. 27. **Insurance receivable by other beneficiaries.**—The statute requires the inclusion in the gross estate of the decedent of the proceeds of any policy, or the aggregate proceeds of all policies, not receivable by or for the benefit of decedent's estate, to the extent that such proceeds exceed $40,000, regardless of when the policy was or the policies were issued, if the decedent possessed at the time of his death any of the legal incidents of ownership.

The estate is entitled to only one exemption of $40,000 upon insurance receivable by beneficiaries other than the estate. For example, if the decedent left life insurance payable to three such beneficiaries in amounts of $10,000, $40,000, and $50,000 (total, $100,000), the full amount should be listed on the return and therefrom subtracted the $40,000 exemption as provided in Schedule C of Form 706. The word "beneficiaries," as used in reference to the $40,000 exemption, means persons entitled to the actual enjoyment of the insurance money.

Art. 28. **Valuation of insurance.**—The amount to be returned if the policy is payable to or for the benefit of the estate is the amount receivable. If the proceeds of a policy are payable to a beneficiary other than to or for the benefit of the estate, the amount to be listed on Schedule C of the return is the full amount receivable. (For taxable portion see article 27.) In case the proceeds of a policy are made payable to the beneficiary in the form of an annuity for life or for a term of years, there should be listed on Schedule C the one sum payable at death under an option which could have been exercised either by the insured or by the beneficiary, or if no option was granted, the sum used by the insurance company in determining the amount of the annuity.

With the return there should be filed a certificate from the insurance company showing, with respect to each policy, the following:

(*a*) The face amount of the policy.

(*b*) The amount of any indebtedness to the company which reduced the amount otherwise payable.

(*c*) The amount of accumulated dividends.

(*d*) The amount of postmortem dividends.

(*e*) Any other facts affecting the value. (See next paragraph.)

(*f*) The value as of the date of death of the insured of the benefits payable under the policy.

In the case of any policy providing for deferred payments (other than payments measured by the facts disclosed under (*a*), (*b*), (*c*), and (*d*), above), the certificate should include the following information:

(*g*) The provisions with respect to the deferred payments or to the installments.

(*h*) The amounts of the deferred payments or installments.

(*i*) If the number of installments to be paid may be measured by the life of any individual, the date of birth of such individual.

(*j*) The amount applied by the insurance company as a single premium representing the purchase of the installment benefits.

(*k*) The basis (Mortality Table and rate of interest) employed by the insurance company in valuing the installment benefits.

GROSS ESTATE—RETROACTIVE PROVISIONS

Sec. 302. * * * (h) Except as otherwise specifically provided therein subdivisions (b), (c), (d), (e), (f), and (g) of this section shall apply to the transfers, trusts, estates, interests, rights, powers, and relinquishment of powers, as severally enumerated and described therein, whether made, created, arising, existing, exercised, or relinquished before or after the enactment of this Act.

DEDUCTIONS—ESTATES OF CITIZENS OR RESIDENTS ADMINISTRATION EXPENSES, CLAIMS, ETC.

Sec. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a resident, by deducting from the value of the gross estate—

(1) Such amounts for funeral expenses, administration expenses, claims against the estate, unpaid mortgages upon, or any indebtedness in respect to, property (except, in the case of a resident decedent, where such property is not situated in the United States), to the extent that such claims, mortgages, or indebtedness were incurred or contracted bona fide and for an adequate and full consideration in money or money's worth, losses incurred during the settlement of the estate arising from fires, storms, shipwreck, or other casualty, or from theft, when such losses are not compensated for by insurance or otherwise, and such amounts reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent, as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered, but not including any income taxes upon income received after the death of the decedent, or any estate, succession, legacy, or inheritance taxes; * * *.

Sec. 805. Revenue Act of 1932.

Section 303(a)(1) of the Revenue Act of 1926, as amended, is amended to read as follows:

"(1) Such amounts—

"(A) for funeral expenses,

"(B) for administration expenses,

"(C) for claims against the estate,

"(D) for unpaid mortgages upon, or any indebtedness in respect to, property where the value of decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate, and

"(E) reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent,

as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered, but not including any income taxes upon income received after the death of the decedent, or property taxes not accrued before his death, or any estate, succession, legacy, or inheritance taxes. The deduction herein allowed in the case of claims against the estate, unpaid mortgages, or any indebtedness shall, when founded upon a promise or agreement, be limited to the extent that they were contracted bona fide and for an adequate and full consideration in money or money's worth. There shall also be deducted losses incurred during the settlement of estates arising from fires, storms, shipwrecks, or other casualties, or from theft, when such losses are not compensated for by insurance or otherwise, and if at the time of the filing of the return such losses have not been claimed as a deduction for income tax purposes in an income tax return."

SEC. 804. Revenue Act of 1932.

Section 303(d) of the Revenue Act of 1926 is amended by adding at the end thereof a new sentence to read as follows:

"For the purposes of this title, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration 'in money or money's worth'."

SEC. 403. Revenue Act of 1934.

(a) Section 303(a) of the Revenue Act of 1926, as amended, is amended by striking out "In the case of a resident" and inserting in lieu thereof "In the case of a citizen or resident of the United States".

ART. 29. **Deduction of administration expenses, claims, etc.**—In order to be deductible under the foregoing provision of the statute, the item must fall within one of the several classes of deductions specifically enumerated therein, and must also, except in the case of deductible losses during the administration of the estate, be one the payment of which out of the estate is authorized by the laws of the jurisdiction under which the estate is being administered. Unless both of these conditions exist the item is not deductible. If the item is not one of those described it is not deductible merely because payment is allowed by the local law. If the amount which may be expended for the particular purpose is limited by the local law no deduction in excess of such limitation is permissible. If a claim against the estate, an unpaid mortgage, or an indebtedness is founded upon a promise or agreement, the deduction therefor is limited to the extent that the liability was contracted bona fide and for an adequate and full consideration in money or money's worth. A relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, is not to any extent a consideration in money or money's worth.

An item may be entered on the return for deduction though the exact amount thereof is not then known, provided it is ascertainable with reasonable certainty, and will be paid. No deduction may be taken upon the basis of a vague or uncertain estimate. In the event the amount of the liability was unascertainable at the time of final audit of the return by the Commissioner, and, as a consequence, deduction was not allowed therefor in such audit, and subsequently the amount of the liability is ascertained, relief may be sought as provided by articles 76 and 99.

ART. 30. **Effect of court decree.**—The decision of a local court as to the amount of a claim or administration expense will ordinarily be accepted if the court passes upon the facts upon which deductibility depends. If the court does not pass upon such facts its decree will, of course, not be followed. For example, if the question before the court is whether a claim should be allowed, the decree allowing it will ordinarily be accepted as establishing the validity and amount of the claim. The decree will not necessarily be accepted even though it purports to decide the facts upon which deductibility depends. It must appear that the court actually passed upon the merits of the case. This will be presumed in all cases of an active and genuine contest. If the result reached appears to be unreasonable, this is some evidence that there was not such a contest, but it may be rebutted by proof to the contrary. If the decree was rendered by consent, it will be accepted, provided the consent was a bona fide recognition of the validity of the claim—not a mere cloak for a gift—and was accepted by the court as satisfactory evidence upon the merits. It will be presumed that the consent was of this character, and was so accepted, if given by all parties having an interest adverse to the claimant. The decree will not be accepted if it is at variance with the law of the State; as, for example, an allowance made to an executor in excess of that prescribed by statute.

ART. 31. **Funeral expenses.**—An executor may deduct such amounts for funeral expenses as are actually expended by him and, under the laws of the local jurisdiction, are payable out of the decedent's estate. A reasonable expenditure by the executor for a tombstone. monument, mausoleum, or for a burial lot, either for the decedent or his family, may be deducted under this heading, provided such an expenditure is allowable by the local law. Included in funeral expenses is the cost of transportation of the person bringing the body to the place of burial.

ART. 32. **Administration expenses.**—The amounts deductible from the gross estate as "administration expenses" are such expenses as are actually and necessarily incurred in the administration of the estate; that is, in the collection of assets, payment of debts, and distribution among the persons entitled. The expenses contemplated in the law are such only as attend the settlement of an estate by the legal representative preliminary to the transfer of the property to individual beneficiaries or to a trustee, whether such trustee is the executor or some other person. Expenditures not essential to the proper settlement of the estate, but incurred for the individual benefit of the heirs, legatees, or devisees, may not be taken as deductions. Administration expenses include (1) executor's commissions; (2) attorney's fees; (3) miscellaneous expenses. Each of these classes is considered separately in articles 33 to 35, inclusive.

ART. 33. **Executor's commissions.**—The executor or administrator, in filing the return, may deduct his commissions in such an amount as has actually been paid or which at that time it is reasonably expected will be paid, but no deduction may be taken if no commissions are to be collected. In the case the amount of the commissions has not been fixed by decree of the proper court, the deduction will be allowed on the final audit of the return provided: (1) That the Commissioner is reasonably satisfied that the commissions claimed will be paid; (2) that the amount entered as a deduction is within the amount allowable by the laws of the jurisdiction wherein the estate is being administered; and (3) that it is in accordance with the usually accepted practice in said jurisdiction in estates of similar size and character. In the case the commissions claimed have not been awarded by the proper court the Commissioner on final audit may disallow the deduction in part or in whole, as the circumstances in his judgment justify, subject to such future adjustment as the facts may later require. If the deduction is allowed in advance of payment and payment is thereafter waived, it shall be the duty of the executor to notify the Commissioner and pay the tax resulting therefrom, together with interest. Executors should note that the commissions received as compensation for their services constitute taxable income and that the amounts received or receivable by them as such compensation are cross-referenced for income-tax purposes.

A bequest or devise to the executor in lieu of commissions is not deductible. If, however, the decedent fixed by his will the compensation payable to the executor for services to be rendered in the administration of the estate, deduction may be taken to the extent that the amount so fixed does not exceed the compensation allowable by the local law or practice.

Amounts paid as trustees' commissions do not constitute expenses of administration and are not deductible, whether received by the executor acting in the capacity of a trustee or by a separate trustee as such.

ART. 34. **Attorney's fees.**—The executor or administrator, in filing the return, may deduct such an amount as attorney's fees as has actually been paid or which at that time it is reasonably expected will be paid. If on the final audit of a return the fees claimed have not been awarded by the proper court and paid, the deduction will be allowed, provided the Commissioner is reasonably satisfied that the amount claimed will be paid and that it does not exceed a reasonable remuneration for the services rendered, taking into account the size and character of the estate and the local law and practice. If the attorney's fees have not been paid at the time of the final audit of the return the Commissioner may disallow such part, or all, of the deduction as the circumstances may warrant, subject to such future adjustment as the facts may require.

Attorney's fees incident to litigation instituted by the beneficiaries as to their respective interests do not constitute a proper deduction, inasmuch as expenses of this character are properly charges against the beneficiaries personally and are not administration expenses as contemplated by the statute.

ART. 35. **Miscellaneous administration expenses.**—This includes such expenses as court costs, surrogates' fees, accountants' fees, appraisers' fees, clerk hire, etc. Expenses necessarily incurred in preserving and distributing the estate are deductible, including the cost of storing or maintaining property of the estate, if it is impossible to effect immediate distribution to the beneficiaries. Expenses for preserving and caring for the property may not include additions or improvements; nor will such expenses be allowed for a longer period than the executor is required to retain the property. A brokerage fee for selling property of the estate is deductible if the sale is necessary in order to pay the decedent's debts, the expenses of administration, or to effect distribution. Other expenses attending the sale are deductible, such as the fees of an auctioneer, if it is reasonably necessary to employ one.

ART. 36. **Claims against the estate.**—The amounts that may be deducted under this heading are such only as represent personal obligations of the decedent existing at the time of his death, whether then matured or not, and any interest thereon which had accrued at time of death. Only claims enforceable against the estate may be deducted. If the claim is founded upon a promise or agreement the deduction therefor is limited to the extent that the liability was contracted bona fide and for an adequate and full consideration in money or money's worth. A pledge or a subscription, evidenced by a promissory note or otherwise, even though enforceable against the estate, is deductible only to the extent such pledge or subscription was made bona fide and for an adequate and full consideration in cash or its equivalent. See article 29 as to relinquishment or promised relinquishment of dower and similar interests. Liabilities imposed by law or arising out of torts are deductible.

ART. 37. **Taxes.**—The deduction for property taxes is limited to such taxes as accrued prior to the date of decedent's death. Property taxes accrue on the date the ownership of the property determines the liability for such taxes.

Taxes upon income received during the decedent's lifetime are deductible, including interest accrued thereon at time of death, but taxes upon income received after death are not deductible. No estate, succession, legacy, or inheritance tax is deductible.

ART. 38. **Unpaid mortgages.**—The full amount of unpaid mortgages upon, or any indebtedness in respect to, property included in the gross estate may be deducted, including interest which had accrued at the time of death, whether payable at that time or not, but only to the extent that the liability for such mortgages or indebtedness was contracted bona fide and for an adequate and full consideration in money or money's worth. The full value of the property, without any deduction for mortgages or indebtedness, must be returned as part of the gross estate. Real property situated outside the United States does not form a part of the gross estate, and no deduction may be taken of any mortgage thereon, or any indebtedness in respect thereto.

Art. 39. **Losses from casualties or theft.**—There may be deducted under this heading losses incurred during the settlement of the estate arising from fires, storms, shipwrecks, or other casualties, or from theft, if such losses are not compensated for by insurance or otherwise. In the case of a decedent who died subsequent to the effective date of the Revenue Act of 1932, such losses are not deductible if, at the time of the filing of the estate tax return, such losses had been claimed as a deduction for income tax purposes in an income tax return. If the loss is partly compensated, the excess of the loss over such compensation may be deducted. Losses not of the nature described are not deductible. In order to be deductible a loss must occur during the settlement of the estate. If a loss with respect to an asset occurs after distribution thereof to the distributee it may not be deducted.

Art. 40. **Support of dependents.**—The support during the settlement of the estate of dependents of the decedent is deductible, but pursuant to the following rules:

(1) In order to be deductible, the allowance must be authorized by the laws of the jurisdiction in which the estate is being administered, and not in excess of what is reasonably required.

(2) The allowance for which deduction may be made is limited to support during the settlement of the estate. Any allowance for a more extended period is not deductible.

(3) There must be an actual disbursement from the estate to the dependents, but after payment has been made the right of deduction is not affected by the fact that the dependents do not expend the entire amount for their support during the settlement of the estate.

DEDUCTIONS—PROPERTY PREVIOUSLY TAXED

Sec. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a resident, by deducting from the value of the gross estate— * * *

(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any per-

son who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from such donor by gift or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1924, or an estate tax imposed under this or any prior Act of Congress was paid by or on behalf of the donor or the estate of such prior decedent as the case may be, and only in the amount of the value placed by the Commissioner on such property in determining the value of the gift or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate and not deducted under paragraph (1) or (3) of this subdivision; * * *.

Sec. 806. Revenue Act of 1932.

(a) Section 303(a)(2) of the Revenue Act of 1926 is amended to read as follows:

> "(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1932, or an estate tax imposed under this or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate. Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction allowable under this paragraph shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (1), (3), and (4) of this subdivision as the amount otherwise deductible under this paragraph bears to the value of the decedent's gross estate. Where the property referred to in this paragraph consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction."

Sec. 402. Revenue Act of 1934.

Paragraph (2) of subdivision (a) and paragraph (2) of subdivision (b) of section 303 of the Revenue Act of 1926, as amended, are amended by inserting before the period at the end of the second sentence of each such paragraph a comma and the following: "and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this paragraph in respect of the property or property given in exchange therefor ".

SEC. 403. Revenue Act of 1934.

(a) Section 303 (a) of the Revenue Act of 1926, as amended, is amended by striking out " In the case of a resident " and inserting in lieu thereof " In the case of a citizen or resident of the United States ".

ART. 41. Deduction of the value of transfers previously taxed.—Should there be included in the decedent's gross estate the value of property received by him by gift from any person within five years prior to his death, or received by gift, bequest, devise, or inheritance from any person who died within five years prior to his death, or the value of property acquired in exchange for property so received, the statute authorizes a deduction in behalf thereof, subject to the following conditions and limitations, namely:

(*a*) *Conditions.*—

(1) The property respecting which the deduction is sought must have been received by the decedent as a gift within five years of the date of his death, or received by him by gift, bequest, devise, or inheritance from a prior decedent who died within five years of the date of the decedent's death.

(2) The property must be identified either as the same which the decedent so received or acquired in exchange therefor.

(3) The property must have formed a part of the gross estate, situated in the United States, of such prior decedent, or have been included in the total amount of gifts of a donor.

(4) An estate tax by or on behalf of the estate of such prior decedent, or a gift tax by or on behalf of the donor, must have actually been paid (the mere filing of a return for such estate or donor not being sufficient).

(5) If the decedent died after 11.40 a. m., eastern standard time, May 10, 1934, no such deduction, in respect to the property or property given in exchange therefor, must have been allowable in determining the value of the net estate of the prior decedent.

(*b*) *Limitations.*—

(A) If the decedent died prior to 5 p. m., eastern standard time, June 6, 1932—

(1) The deduction is limited to the value of the property, as finally determined, in determining the value of the gift or the gross estate of the prior decedent, and the value, of such property, included in the decedent's gross estate, whichever is lower.

(2) The deduction, as limited in (1), is reduced by the total amount paid prior to the decedent's death on any mortgage or other lien on the property previously taxed, provided such mortgage or other lien was deducted in determining the estate tax of the prior decedent or the gift tax of the donor.

(3) The deduction for property previously taxed, or that acquired in exchange therefor, is not diminished by amounts deducted under paragraph (1) or (3) of subdivision (a) of section 303 merely because such amounts were paid out of said property. On the other hand, however, the deduction is diminished to the extent that the value of the property so taxed, or of that acquired in exchange therefor, is deducted under said paragraph (1) or (3) on account of such losses arising from casualty or theft as are incurred with respect to said property during the settlement of the estate, or on account of such transfers of specific items of said property as the decedent made in his lifetime or by his will, for public, religious, charitable, scientific, literary, or educational purposes, and the deduction is further diminished to the extent that the amounts allowed under said paragraph (1) or (3), other than those relating to said losses or transfers, are in excess of the value of the decedent's property not previously taxed but subject to debts and charges. The burden of proving that the estate is entitled to the deduction rests upon the executor. The provisions of this paragraph apply in like manner to cases controlled by the Revenue Acts of 1921 and 1924.

(B) If the decedent died after 5 p. m., eastern standard time, June 6, 1932—

(1) The deduction is limited to the value of the property, or if there are two or more items of such property then to the aggregate value of such items, as finally determined, in determining the value of the gift or the gross estate of the prior decedent, and the value of such property, or aggregate value if there are two or more items of such property, included in the decedent's gross estate, whichever is lower.

(2) The deduction, as limited in (1), is reduced by the total amount paid prior to the decedent's death on any mortgage or other lien on the property previously taxed, provided such mortgage or other lien was deducted in determining the estate tax of the prior decedent or the gift tax of the donor.

(3) The deduction is further reduced on account of the deductions allowed under paragraphs (1), (3), and (4) of subdivision (a) of section 303. This deduction is that proportion of such deductions which the amount otherwise deductible for property previously taxed bears to the value of the decedent's gross estate.

Under the provisions of the Revenue Act of 1918 the deduction was available only in the case the prior decedent died after October 3, 1917, the date of the passage of the Revenue Act of 1917, and the decedent's death occurred subsequent to the effective date of the Revenue Act of 1918. But under the provisions of the Revenue Act of 1921 the right to such deduction is made available to the estates of all decedents dying since September 8, 1916. If, under the provisions of the Revenue Act of 1918, or any prior Act of Congress imposing an estate tax, the deduction was not available, the right thereto is to be determined in accordance with the provisions of paragraph (2) of subdivision (a) of section 403 of the Revenue Act of 1921, but if available under the Revenue Act of 1918, it is governed by paragraph (2) of subdivision (a) of section 403 of that Act. Section 1100 (c) of the Revenue Act of 1924 provides that the retroactive benefit of section 403 of the Revenue Act of 1921 is not lost by the repeal thereof. If the tax has been paid without taking the deduction, a claim for refund may be made, as provided by article 99.

Example: The decedent died June 15, 1931. The value of his gross estate for the purpose of the estate tax is $1,000,000, of which $200,000 is the value of insurance in excess of $40,000 payable to beneficiaries other than the estate, $600,000 is the value of property previously taxed, and $200,000 is the value of stocks and bonds not previously taxed. The property previously taxed was inherited from the decedent's father, who died on June 1, 1929. The tax on the father's estate was paid. The property previously taxed may be set forth as follows:

	Decedent's estate	Prior estate	Lower value
Item 1	$150, 000	$100, 000	$100, 000
Item 2	40, 000	85, 000	40, 000
Item 3	110, 000	125, 000	110, 000
Item 4	130, 000	120, 000	120, 000
Item 5	90, 000	115, 000	90, 000
Item 6	80, 000	50, 000	50, 000
Totals	600, 000	595, 000	510, 000

Item 1, $150,000, is specifically bequeathed to a charitable organization. Administration expenses and debts of the decedent amount to $250,000.

The decedent having died prior to 5 p. m., eastern standard time, June 6, 1932, the deduction is limited to the value of each item placed upon it by the Commissioner in the prior estate or gift, or to the value of each item included in the decedent's gross estate, whichever is the lower. Accordingly, the total amount of the deduction thus ascertained is $510,000. In accordance with paragraph (A) (3) of this article the deduction must be diminished to the extent of the value of any specific item bequeathed to a charitable organization. As item 1 was so bequeathed the amount of $510,000 is diminished by $100,000, the value of item 1 as included in the deduction for property previously taxed. Also, in accordance with paragraph (A) (3) of this article the deduction must be further diminished to the extent that the deductions for administration expenses and debts, or $250,000, exceed the value of the decedent's property subject to debts and charges and not previously taxed, or $200,000. This excess is $50,000. The deduction for property previously taxed is, therefore, further diminished by $50,000, and the amount of the deduction allowable for property previously taxed is $360,000. The total deductions of $860,000 (administration expenses and debts, $250,000; charitable bequest, $150,000; property previously taxed, $360,000; and specific exemption, $100,000) subtracted from the total gross estate of $1,000,000 leaves a net estate of $140,000.

Example: The decedent died June 15, 1932. The value of his gross estate for the purpose of the estate tax is $1,000,000, of which $200,000 is the value of insurance in excess of $40,000 payable to beneficiaries other than the estate, $600,000 is the value of property previously taxed, and $200,000 is the value of stocks and bonds not so taxed. The property previously taxed was inherited from the decedent's father who died on June 1, 1929. The tax on the father's estate was paid. The property previously taxed may be set forth as follows:

	Decedent's estate	Prior estate
Item 1	$150, 000	$100, 000
Item 2	40, 000	85, 000
Item 3	110, 000	125, 000
Item 4	130, 000	120, 000
Item 5	90, 000	115, 000
Item 6	80, 000	50, 000
Totals	600, 000	595, 000

Item 1, $150,000, is specifically bequeathed to a charitable organization free of estate, inheritance, legacy, or succession taxes. Administration expenses and debts of the decedent amount to $150,000. At the time of the father's death there was an unpaid mortgage of $60,000 on item 5 which was deducted in determining the estate tax liability of the father's estate. This mortgage was entirely paid before the son's death.

The decedent having died after 5 p. m., eastern standard time, June 6, 1932, the deduction for property previously taxed is limited to the aggregate value of the items constituting such property as finally determined in the case of the prior decedent or donor, or to the aggregate value of such property included in the decedent's gross estate, whichever is the lower. Accordingly, the amount of the deduction for property previously taxed thus ascertained is $595,000. In accordance with paragraph (B) (2) of this article this deduction is reduced by $60,000, the amount paid in the discharge of the mortgage on item 5. The deduction thus reduced is $535,000.

The deduction is further reduced by a proportionate amount computed under the provisions of paragraph (B) (3) of this article. As the amount of the specific exemption authorized by the Revenue Act of 1926 is greater than the amount of the specific exemption authorized by the Revenue Act of 1932, the amount so computed in determining the deduction for the purpose of the estate tax imposed by the Revenue Act of 1926 differs from the amount so computed in determining the deduction for the purpose of the additional tax imposed by the Revenue Act of 1932.

In the present example the deductions, except for property previously taxed, amount to $400,000, as follows: $150,000 for the charitable bequest, $150,000 for administration expenses and debts, and $100,000 for the specific exemption authorized by the Revenue Act of 1926. The proportionate amount by which the deduction for property previously taxed is further reduced for the purpose of the estate tax imposed by the Revenue Act of 1926 is ascertained by multiplying the above mentioned $400,000 by .535, the ratio which the said $535,000 bears to the value of the gross estate, $1,000,000, and amounts to $214,000. The difference between $535,000 and $214,000 is $321,000, the amount in which the deduction for property previously taxed is allowable in determining the tax imposed by the Revenue Act of 1926. The total amount of the deductions, $721,000, subtracted from the value of the gross estate, $1,000,000, leaves a net estate of $279,000 the transfer of which is subject to the tax imposed by the Revenue Act of 1926.

The Revenue Act of 1932 provides for a specific exemption of $50,000. Accordingly, the deductions, other than the deduction for property previously taxed, allowable under that Act amount to $350,000, and .535 of that amount is $187,250, the proportionate amount by which the deduction for property previously taxed is further reduced for the purposes of the additional tax imposed by the Revenue Act of 1932. The difference between $535,000 and $187,250 is $347,750, the amount in which the deduction for property previously taxed is allowable in determining the additional tax imposed by the last-mentioned Act. The total amount of the deductions, $697,750, subtracted from the value of the gross estate, $1,000,000, leaves a net estate of $302,250, the transfer of which is subject to the additional tax imposed by the Revenue Act of 1932.

ART. 42. **Property originally received.**—If the property originally received from a donor or prior decedent is included in the decedent's gross estate, the executor must describe it fully and prove its identity.

ART. 43. **Property acquired in exchange.**—The deduction for substituted property is not limited to property acquired by a single exchange of property received from the donor or the prior decedent, but extends to substituted property acquired by the process of exchange, whether through the medium of money or otherwise, irrespective of the number of conversions involved, including the proceeds of the sale or other disposition of property so received or acquired, as well as property acquired by purchase with the proceeds of the sale or other disposition of such property so long as such proceeds can be conclusively identified as such and clearly traced to the property originally so received.

The executor must describe and fully identify both the property originally received from the donor or the prior decedent and the substituted property for which deduction is claimed, giving the date and stating the nature of the transaction by which the substituted property was acquired, together with the name and address of the transferee. If the transaction was evidenced by written instrument of public record, precise reference to such record must be made, and if by instrument not of record, a verified copy thereof must be supplied. If there was no written instrument, there must be furnished the affidavit of one or more persons having personal knowledge of the matter, setting forth the facts in connection therewith.

The burden of identifying property as acquired in exchange for property included in the gross estate of the prior decedent for Federal estate tax purposes rests upon the executor.

DEDUCTIONS—TRANSFERS FOR PUBLIC, CHARITABLE RELIGIOUS, ETC., USES

SEC. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a resident, by deducting from the value of the gross estate— * * *

(3) The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees, or a fraternal society, order, or association operat-

ing under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. The amount of the deduction under this paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate; and * * *.

Sec. 807. Revenue Act of 1932.

Sections 303(a) (3) and 303(b) (3) of the Revenue Act of 1926 are amended by inserting after the first sentence of each a new sentence to read as follows:

"If the tax imposed by section 301, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes."

Sec. 403. Revenue Act of 1934.

(a) Section 303 (a) of the Revenue Act of 1926, as amended, is amended by striking out "In the case of a resident" and inserting in lieu thereof "In the case of a citizen or resident of the United States".

Sec. 406. Revenue Act of 1934.

Section 303 (a) (3) and section 303 (b) (3) of the Revenue Act of 1926, as amended, are amended by inserting after "individual", wherever appearing therein, a comma and the following: "and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation".

Art. 44. **Transfers for public, charitable, religious, etc., uses.**—Deduction may be taken of the value of all property transferred by will or by the decedent in his lifetime not to exceed the value of the transferred property required to be included in the gross estate if in either case the property was transferred (1) to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes; or (2) to or for the use of any corporation or association organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art and the prevention of cruelty to children or animals), if no part of the net earnings of the corporation or association inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; or (3) to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, if such transfers, legacies, bequests, or devises are to be used by such trustee, trustees, fraternal society, order, or association exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

If a trust is created for both a charitable and a private purpose, deduction may be taken of the value of the beneficial interest in favor of the former only in so far as such interest is presently ascertainable, and hence severable from the interest in favor of the private use. Thus, if money or property is placed in trust to pay the income to an individual during his life, or for a term of years, and then to pay or deliver the principal to a charitable corporation, or to apply it to a charitable purpose, the present value of the remainder is deductible. To determine the present value of such remainder use the appropriate factor in column 3 of Table A or B of article 13.

The deduction is not limited, in the estates of residents (or of citizens who died after the enactment of the Revenue Act of 1934), to transfers to domestic corporations or associations, or to trustees for use within the United States.

If the decedent died after 5 p. m., eastern standard time, June 6, 1932, and under the terms of the will, or the law of the jurisdiction wherein the estate is administered, or the law of the jurisdiction imposing the particular tax, the Federal estate tax (including the additional estate tax imposed by the Revenue Act of 1932), or any estate, succession, legacy, or inheritance tax is payable in whole or in part out of any bequest, legacy, or devise deductible under section 303 (a) (3), the sum deductible is the amount of such bequest, legacy, or devise so reduced. Thus, if $50,000 is bequeathed for a charitable purpose and is subjected to a State inheritance tax of $5,000, the amount deductible is $45,000; or if a life estate is bequeathed to an individual with remainder over to a charitable corporation, and by the local law the legacy tax upon the life estate is taken out of the corpus with the result that the charitable corporation will be entitled to receive only the amount of the fund less the tax, the deduction is limited to the present worth, as of the date of the testator's death, of the remainder of the fund so reduced; or if the testator bequeaths his residuary estate, or a portion thereof, to charity, and his will contains a direction that certain inheritance taxes, otherwise payable from legacies in respect to which they were laid, shall be payable out of such residuary estate, the deduction may not exceed the bequest to charity thus reduced pursuant to the direction of the will; or if a residuary estate, or a portion thereof, be bequeathed to charity, and by the local law the Federal estate tax is payable out of the residuary estate, the deduction may not exceed that portion of the residuary estate bequeathed to charity as reduced by the Federal estate tax. Should the executor desire a verification of his own computation before filing the return on Form 706, or should he wish the Bureau to make the computation for him in the first instance, he should accompany his request with a statement of the material facts.

ART. 45. **Religious, charitable, scientific, and educational corporations.**—A corporation or association to which such a transfer was made must meet four tests: (1) It must be organized and operated for one or more of the specified purposes; (2) it must be organized and operated exclusively for such purpose or purposes; (3) no part of its net earnings shall inure to the benefit of private stockholders or individuals; and (4) no substantial part of its activities shall be carrying on propaganda, or otherwise attempting, to influence legislation.

The estate is not deprived of the right to deduct the value of property so transferred by reason of the fact that private individuals are the recipients of the benefits which the corporation or association dispenses. Such right is, however, lost if any part of the net earnings of the corporation or association inures to the benefit of a private stockholder or individual.

ART. 46. **Proof required.**—In establishing the right of the estate to this deduction, the executor must submit:

(1) Duplicate copies of the will of the decedent, and of the order admitting the will to probate, one copy of each of which should be certified. Duplicate copies of any instrument in writing by which the decedent made a transfer of property in his lifetime the value of which is required by the statute to be included in his gross estate, and if the instrument is of record one copy thereof should be certified, and if not of record, one copy should be verified. The certified or verified copy should be forwarded by the collector to the Commissioner.

(2) An affidavit by the executor stating whether any action has been instituted to contest the will, or any bequest, or devise therein, the deduction of which from the gross estate is claimed, and whether, according to his information and belief, any such action is designed or contemplated.

(3) Such other documents or evidence as may be requested by the Commissioner.

ART. 47. **Conditional bequests.**—If the transfer is dependent upon the performance of some act or the happening of some event in order to become effective, it is necessary that the performance of the act or the occurrence of the event shall have taken place before the deduction can be allowed.

If the legatee, devisee, donee, or trustee is empowered to divert the property or fund, in whole or in part, to a use or purpose which would have rendered it, to the extent that it is subject to such power, not deductible had it been directly so bequeathed, devised, or given by the decedent, deduction will be limited to that portion, if any, of the property or fund which is exempt from an exercise of such power.

SPECIFIC EXEMPTION

SEC. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a resident, by deducting from the value of the gross estate— * * *

(4) An exemption of $100,000. * * *

SEC. 401. Revenue Act of 1932. * * *

(c) For the purposes of this section the value of the net estate shall be determined as provided in Title III of the Revenue Act of 1926, as amended, except that in lieu of the exemption of $100,000 provided in section 303 (a) (4) of such Act, the exemption shall be $50,000.

SEC. 403. Revenue Act of 1934.

(a) Section 303 (a) of the Revenue Act of 1926, as amended, is amended by striking out "In the case of a resident" and inserting in lieu thereof "In the case of a citizen or resident of the United States".

ART. 48. **Specific exemption.**—A specific exemption should be deducted in determining the net estate in the case of the estate of a resident. A specific exemption should also be deducted in the case of the estate of a citizen, regardless of residence, if the decedent died after 11.40 a. m., eastern standard time, May 10, 1934. The specific exemption deductible in determining the net estate upon which the tax is imposed by the Revenue Act of 1926 (in effect after 10.25 a. m., eastern standard time, February 26, 1926), is $100,000. The specific exemption deductible in determining the net estate upon which the additional tax is imposed by the Revenue Act of 1932 (in effect after 5 p. m., eastern standard time, June 6, 1932), is $50,000. If the decedent died prior to the enactment of the Revenue Act of 1926, the specific exemption is $50,000. No specific exemption is authorized in the case of the estate of a nonresident alien, and no specific exemption is authorized in the case of the estate of a nonresident, regardless of citizenship, if the decedent died prior to 11.40 a. m., eastern standard time, May 10, 1934.

ESTATES OF NONRESIDENT ALIENS

SEC. 303. * * * (d) For the purpose of this title, stock in a domestic corporation owned and held by a nonresident decedent shall be deemed property within the United States, and any property of which the decedent has made a transfer, by trust or otherwise, within the meaning of subdivision (c) or (d) of section 302, shall be deemed to be situated in the United States, if so situated either at the time of the transfer, or at the time of the decedent's death. * * *

(e) The amount receivable as insurance upon the life of a nonresident decedent, and any moneys deposited with any person carrying on the banking business, by or for a nonresident decedent who was not engaged in business in the United States at the time of his death, shall not, for the purpose of this title, be deemed property within the United States.

(f) Missionaries duly commissioned and serving under boards of foreign missions of the various religious denominations in the United States, dying while in the foreign missionary service of such boards, shall not, by reason merely of their intention to permanently remain in such foreign service, be deemed nonresidents of the United States, but shall be presumed to be residents of the State, the District of Columbia, or the Territories of Alaska or Hawaii wherein they respectively resided at the time of their commission and their departure for such foreign service.

Sec. 403. Revenue Act of 1934. * * *

(d) Section 303 (d) and (e) of such Act, as amended, are amended by striking out the phrase "nonresident decedent" wherever such phrase appears in such subdivisions and inserting in lieu thereof in each case "nonresident not a citizen of the United States".

Art. 49. **Gross estate.**—The gross estate of a citizen, alien, resident, and nonresident are made up in the same way. For computation of net estate of a nonresident alien (or a nonresident, regardless of citizenship, if death occurred prior to the enactment of the Revenue Act of 1934), see article 51. For meaning of the terms "citizens," "residents," and "nonresidents," and the presumption applying as to the residence of missionaries, see article 5.

Art. 50. **Situs of property.**—Real estate and tangible personal property are situated in the United States if physically therein. Certificates of stock, bonds, bills, notes, and other written evidences of intangible property which are treated as being the property itself are property situated in the United States if physically situated therein.

Except as provided in section 303 (e) intangible personal property has a situs within the United States if consisting of a property right issuing from or enforceable against a corporation (public or private) organized in the United States or a person who is a resident of the United States. As examples, the following may be given: Corporate stock issued by such a corporation, or a simple debt, bond, note, or other chose in action for which such a corporation or individual is liable. Under the provisions of section 303 (e) the amount receivable as insurance upon the life of a nonresident decedent (nonresident alien decedent if death occurred after the enactment of the Revenue Act of 1934) and any moneys deposited with any person carrying on the banking business by or for such a decedent not engaged in business in the United States at the time of his death shall not be deemed property within the United States.

Property of which the decedent has made a transfer taxable under the provisions of article 15 of these regulations is deemed to be situated in the United States if so situated either at the time of the transfer or at the time of the decedent's death. (See articles 15 to 21, inclusive.)

DEDUCTIONS—ESTATES OF NONRESIDENT ALIENS

Sec. 303. For the purpose of the tax the value of the net estate shall be determined— * * *

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

(1) That proportion of the deductions specified in paragraph (1) of subdivision (a) of this section which the value of such part bears to the value of his entire gross estate, wherever situated, but in no case shall the amount so deducted exceed 10 per centum of the value of that part of his gross estate which at the time of his death is situated in the United States;

(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from such donor by gift or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1924, or an estate tax imposed under this or any prior Act of Congress was paid by or on behalf of the donor or the estate of such prior decedent as the case may be, and only in the amount of the value placed by the Commissioner on such property in determining the value of the gift or the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States and not deducted under paragraph (1) or (3) of this subdivision; and

(3) The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. The amount of the deduction under this paragraph for any

transfer shall not exceed the value of the transferred property required to be included in the gross estate.

(c) No deduction shall be allowed in the case of a nonresident unless the executor includes in the return required to be filed under section 304 the value at the time of his death of that part of the gross estate of the nonresident not situated in the United States.

SEC. 401. Revenue Act of 1928.

(a) Section 303 (b) (1) of the Revenue Act of 1926 (relating to deductions from the gross estate of a nonresident decedent) is amended by striking out: ", but in no case shall the amount so deducted exceed 10 per centum of the value of that part of his gross estate which at the time of his death is situated in the United States."

(b) Subsection (a) of this section shall apply in the case of nonresident decedents dying after the enactment of this Act.

SEC. 806. Revenue Act of 1932. * * *

(b) Section 303 (b) (2) of the Revenue Act of 1926 is amended to read as follows:

> "(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1932, or an estate tax imposed under this or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States. Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction allowable under this paragraph shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (1) and (3) of this subdivision as the amount otherwise deductible under this paragraph bears to the value of that part of the decedent's gross estate which at the time of his death is situated in the United States. Where the property referred to in this paragraph consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction."

SEC. 807. Revenue Act of 1932.

Sections 303(a) (3) and 303(b) (3) of the Revenue Act of 1926 are amended by inserting after the first sentence of each a new sentence to read as follows:

"If the tax imposed by section 301, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes."

SEC. 402. Revenue Act of 1934.

Paragraph (2) of subdivision (a) and paragraph (2) of subdivision (b) of section 303 of the Revenue Act of 1926, as amended, are amended by inserting before the period at the end of the second sentence of each such paragraph a comma and the following: "and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this paragraph in respect of the property or property given in exchange therefor".

SEC. 403. Revenue Act of 1934. * * *

(b) Section 303(b) of such Act, as amended, is amended by striking out "In the case of a nonresident" and inserting in lieu thereof "In the case of a nonresident not a citizen of the United States".

(c) Section 303(c) of such Act, as amended, is amended by striking out "in the case of a nonresident" and inserting in lieu thereof "in the case of a nonresident not a citizen of the United States".

SEC. 406. Revenue Act of 1934.

Section 303(a) (3) and section 303(b) (3) of the Revenue Act of 1926, as amended, are amended by inserting after "individual", wherever appearing therein, a comma and the following: "and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation".

ART. 51. **Net estate.**—The statute imposes the tax upon the transfer of only the portion of the estate of a nonresident alien (or of a nonresident, regardless of citizenship, if the decedent died prior to the enactment of the Revenue Act of 1934) that was situated in the United States. In determining the net estate, the deductions specifically authorized for this class of cases may be taken from the portion of the gross estate situated in the United States.

ART. 52. **Deduction of administration expenses, claims, etc.**—In estates of nonresident aliens (or of nonresidents, regardless of citizenship, if the decedents died prior to the enactment of the Revenue Act of 1934), deductions from the gross estate may be taken, subject to the limitations herein subsequently to be referred to, for funeral expenses, administration expenses, claims against the estate, unpaid mortgages, losses incurred during the settlement of the estate arising from fires, storms, shipwreck, or other casualty, or from theft, if such losses are not compensated for by insurance or otherwise, amounts reasonably required and actually expended for the support during settlement of the estate of those dependent upon the decedent, as are allowed by the laws of the jurisdiction under which the estate is being administered. Treatment of the several deductions enumerated above will be found in articles 29 to 40, inclusive. No deduction may be taken of any income taxes upon income received after the death of the decedent, or of any estate, succession, legacy, or inheritance taxes. It is immaterial whether the amounts to be deducted were incurred or expended within or without the United States, but certain limitations are imposed which do not apply to estates of residents or citizens (or of residents only, without regard to citizenship, if the decedents died prior to the enactment of the Revenue Act of 1934), namely: (1) Only that proportion of the aggregate thereof is deductible which the value of that part of the gross estate situated (within the meaning of the statute) in the United States, bears to the value of the entire gross estate, wherever situated; and if the decedent died prior to the effective date of the Revenue Act of 1928, no sum may be deducted in excess of 10 per cent of the value of that part of the gross estate situated in the United States. (See article 55.) The 10 per cent limitation does not apply to the deductions subsequently considered in articles 53 and 54. (2) No deduction whatever may be taken unless the executor includes in the return the value at the date of the decedent's death of that part of the gross estate not situated in the United States.

In order that the Commissioner may properly pass upon the items claimed as deductions, the executor should submit a certified copy of the schedule of liabilities, claims against the estate, and expenses of administration filed under the foreign death-duty act; or, if no such schedule was filed, a certified copy of the schedule of such liabilities, claims, and expenses filed with the foreign court in which administration was had; or, if items of deduction allowable under section 303 (b) (1) were not included in either such schedule, or if no such schedules were filed, then the affidavit of the foreign executor setting forth the facts relied upon as entitling the estate to the benefit of the particular deduction or deductions.

ART. 53. **Deduction of the value of property previously taxed.**—The right to deduct the value of property received by a nonresident alien decedent (or by a nonresident, regardless of citizenship, if the decedent died prior to the enactment of the Revenue Act of 1934) by gift from any person within five years prior to his death, or by gift, bequest, devise, or inheritance from any person who died within five years prior to his death, or of the value of property acquired in exchange for property so received, is governed by the same rules as those applying to estates of residents (articles 41 to 43, inclusive), subject to the three following exceptions: (1) The deduction is decreased on account of the deductions allowable under the provisions of paragraphs (1) and (3) of subdivision (b) of section 303 in lieu of the deductions allowable under paragraphs (1) and (3) of subdivision (a) of such section, or paragraphs (1), (3), and (4) of subdivision (a) if the decedent died after the effective date of the Revenue Act of 1932; (2) the property for which the deduction is claimed must be included in that part of the decedent's gross estate situated in the United States at the time of his death; and (3) the deduction is not available to any extent unless the executor includes in the return the value at the time of the decedent's death of that part of the gross estate not situated in the United States. (See article 52.)

ART. 54. **Deduction of value of transfers for public, charitable, religious, etc., uses.**—The right to deduct the value of property transferred by nonresident aliens (or nonresidents, regardless of citizenship, if decedents died prior to the enactment of the Revenue Act of 1934) for public, religious, charitable, scientific, literary, or educational purposes is governed by the same rules as those applying to estates of resident decedents (articles 44 to 47, inclusive), subject, however, to the two following exceptions, namely: (1) That the right is limited to transfers to corporations and associations created or organized in the United States, or to trustees for use within the United States, and (2) is then available only if the executor includes in the return the value at the time of the decedent's death of that part of the gross estate not situated in the United States.

Instead of duplicate copies of the documents specified in article 46, only one copy is required to be filed.

ART. 55. **Determination of net estate.**—The following example will show the manner of determining the net estate of a nonresident alien. The gross estate, wherever situated, amounts to $1,000,000, of which $200,000 represents the value of the property having its situs within the United States (the term "United States" including not only the several States, but also the Territories of Alaska and Hawaii, and the District of Columbia). The funeral expenses, administration expenses, and claims against the estate aggregate $150,000, and there are charitable bequests, for use within the United States, amounting to $25,000. Hence the property situated within the United States constitutes 20 per cent of the entire gross estate wherever situated, and a like percentage of the $150,000 is $30,000. The following result is accordingly obtained:

Gross estate within the United States		$200, 000
20 per cent of $150,000	$30, 000	
Charitable bequests for use within the United States	25, 000	
		55, 000
Net estate		145, 000

For the manner of computing the tax on the net estate, see article 8.

In the example given, had the decedent died prior to the effective date of the Revenue Act of 1928, 20 per cent of the funeral expenses, administration expenses, and claims against the estate, or $30,000, would not have been deductible, for the reason that it would have exceeded 10 per cent of the value of the property situated in the United States. The deduction in such case would have been limited to 10 per cent of $200,000, plus the charitable bequests, or a total of $45,000, and the resultant net estate would have been $155,000, instead of the amount given in the example.

Art. 56. **Payment of tax.**—The provisions relating to credits (see article 9) and to rates and payment of the tax are the same in estates of nonresident aliens (or of nonresidents, regardless of citizenship, if the decedents died prior to the enactment of the Revenue Act of 1934) and of residents or citizens (or of residents only, without regard to citizenship, if the decedents died prior to the enactment of the Revenue Act of 1934). The statute provides that the executor shall pay the tax. If there is no executor or administrator appointed, qualified, and acting within the United States, every person in either the actual or constructive possession of any property of the decedent is constituted by the statute an executor for the purpose of tax payment, and is liable for the tax to the extent of the property so in his possession. (See articles 78 to 85, inclusive.) All checks, drafts, or money orders should be made payable to the order of Collector of Internal Revenue.

PRELIMINARY NOTICE—ESTATES OF RESIDENTS OR CITIZENS

> Sec. 304. (a) The executor, within two months after the decedent's death, or within a like period after qualifying as such, shall give written notice thereof to the collector. * * *
>
> Sec. 403. Revenue Act of 1932.
>
> Except as provided in section 402, the tax imposed by section 401 of this Act shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by section 301 (a) of the Revenue Act of 1926, except that in the case of a resident decedent a return shall be required if the value of the gross estate at the time of the decedent's death exceeds $50,000.

Art. 57. **When notice required.**—A preliminary notice is required to be filed in the case of every resident or citizen (or of a resident only, without regard to citizenship, if the decedent died prior to the enactment of the Revenue Act of 1934) whose gross estate exceeded $50,000 in value at the date of death, except that if the decedent died

subsequent to the effective date of the Revenue Act of 1926 (10.25 a. m., eastern standard time, February 26, 1926) and prior to the effective date of the Revenue Act of 1932 (5 p. m., eastern standard time, June 6, 1932), notice is required if the gross estate exceeded $100,000 in value at the date of death. The notice must be filed in duplicate within two months after the decedent's death or within two months after the executor has qualified. In the case of a resident, it must be filed with the collector in whose district the decedent had his domicile at the time of death. In the case of a nonresident citizen, it must be filed with the collector in whose district the gross estate in the United States was situated; or, if the gross estate in the United States was situated in more than one district, or, if no part of the gross estate was situated in the United States, it must be filed with the collector for the second district of New York, or with such collector as the Commissioner may designate. If there is doubt as to whether the gross estate exceeded $50,000, or exceeded $100,000, as the case may be, the notice should be filed as a matter of precaution in order to avoid the possibility of penalties attaching.

Art. 58. **Notice by executor or administrator.**—The duly qualified executor or administrator is required to file such preliminary notice on Form 704, copies of which may be obtained from the collector, within two months after qualifying as such, if notice has not already been filed. The primary purpose of the notice is to advise the Government of the existence of taxable estates, and filing should not be delayed beyond the two months' period because of uncertainty as to the exact value of the assets. Since the filing of the notice within the prescribed period is mandatory, the estimate of the gross estate called for by the notice is merely the best approximation of value which can be made within the time allowed. The instructions upon the back of the form should be read carefully before executing the notice. The signature of one executor or administrator upon Form 704 is sufficient. For penalties for delinquency in filing notice, or for filing a false or fraudulent notice, see articles 91, 92, and 94.

Art. 59. **Notice by others than duly qualified executor or administrator.**—The term "executor" embraces any person in actual or constructive possession of any property of the decedent at the time of the latter's death, if within two months after the decedent's death no executor or administrator qualifies. The notice on Form 704 must be filed by such persons in every case in which an executor or administrator has not duly qualified within such period. If, within the period mentioned, an executor or administrator qualifies, the duty of filing the notice devolves upon him, and all other persons are relieved therefrom.

PRELIMINARY NOTICE—ESTATES OF NONRESIDENT ALIENS

Art. 60. **Estates of nonresident aliens; preliminary notice.**—In estates of nonresident aliens (or of nonresidents, regardless of citizenship, if the decedent died prior to the enactment of the Revenue Act of 1934), notice on Form 705, copies of which may be obtained from the Commissioner of Internal Revenue, Washington, D. C., or from any United States collector of internal revenue, upon application, is required if any part of the gross estate was situated (within the meaning of the statute, as to which see article 50) in the United States. The notice must be filed, in duplicate, by every appointed, qualified, and acting executor or administrator within the United States with the United States collector of internal revenue of the district in which such part of the gross estate was situated, or, if such part of the gross estate was situated in more than one district, it must be filed with the collector for the second district of New York, or with such collector as the Commissioner may designate. The notice is necessary if any part of the decedent's gross estate was situated, within the meaning of the statute, in the United States, regardless of the value of that part or of the entire gross estate. If no executor or administrator has qualified, notice must be filed within two months after the date of death by every person in either the actual or constructive possession of any property of the decedent so within the United States at the time of his death. If such person has no knowledge of the decedent's death within two months following its occurrence, he should file the notice immediately upon obtaining such knowledge. The term "person in actual or constructive possession of any property of the decedent" (section 300) includes, among others, the decedent's agents and representatives; safe-deposit companies, warehouse companies, and similar custodians of property in this country; brokers holding, as collateral, securities belonging to the decedent or investment funds owned by the decedent, and debtors of the decedent in this country. As to any moneys deposited by or for a decedent of this class with any person, corporation, or association carrying on the banking business, no notice is required, unless, however, the decedent was engaged in business in the United States at the time of his death.

Art. 61. **Information return by corporation or transfer agent.**—Upon notification from the Bureau of Internal Revenue a corporation (organized or created in the United States), or its transfer agent will be required to file a return disclosing the following information pertaining to stocks or bonds registered in the name of a nonresident decedent (regardless of citizenship): (1) Name of decedent as registered; (2) date of death, residence, place of death, and names and addresses of executors, attorneys, or other representatives, within and without the United States, if known; and (3) a description of the securities and the number of shares or bonds and the par values. Treasury Department Form 714, which will be supplied by the Bureau upon request, may be used for the return.

Art. 62. **Transfer certificates.**—Certificates permitting the transfer of property of nonresident decedents (regardless of citizenship) without liability will be issued by the Commissioner when he is satisfied that the tax imposed upon the estate, if any, has been fully discharged or provided for. The tax will be considered fully discharged for the purpose of the issuance of a transfer certificate only when investigation has been completed and payment of the tax, including any deficiency finally determined, has been made. If the tax liability has not been fully discharged transfer certificates may be issued permitting the transfer of particular items of property without liability upon the filing with the Commissioner of such security as he may require. No corporation or its transfer agent should transfer stock or bonds registered in the name of a nonresident decedent without first requiring this transfer certificate covering all of the decedent's stock and bonds of the corporation and showing that such transfer may be made without liability. A bank, trust company, or other custodian in possession of bills, notes, cash, mortgages, securities, money due on open accounts by domestic debtors, or any other property situated in the United States of a nonresident decedent's estate should also require the certificate before transferring such property. Corporations, transfer agents, banks, trust companies, or other custodians can insure avoidance of liability for tax and penalties only by demanding and receiving transfer certificates prior to transfer of property of nonresident decedents (regardless of citizenship).

The requirements of this and the preceding article do not apply if there is an executor or administrator appointed, qualified, and acting within the United States.

THE RETURN—ESTATES OF RESIDENTS OR CITIZENS

> Sec. 304. (a) * * * The executor shall also, at such times and in such manner as may be required by regulations made pursuant to law, file with the collector a return under oath in duplicate, setting forth (1) the value of the gross estate of the decedent at the time of his death, or, in case of a nonresident, of that part of his gross estate situated in the United States; (2) the deductions allowed under section 303; (3) the value of the net estate of the decedent as defined in section 303; and (4) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

(b) Return shall be made in all cases where the gross estate at the death of the decedent exceeds $100,000, and in the case of the estate of every nonresident any part of whose gross estate is situated in the United States. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross estate.

SEC. 403. Revenue Act of 1932.

Except as provided in section 402, the tax imposed by section 401 of this Act shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by section 301 (a) of the Revenue Act of 1926, except that in the case of a resident decedent a return shall be required if the value of the gross estate at the time of the decedent's death exceeds $50,000.

SEC. 403. Revenue Act of 1934. * * *

(e) Section 304(a) and (b) of such Act, as amended, are amended by striking out "nonresident" wherever such word appears and inserting in lieu thereof in each case "nonresident not a citizen of the United States".

(f) Section 403 of the Revenue Act of 1932 is amended by striking out "resident decedent" and inserting in lieu thereof "citizen or resident of the United States".

ART. 63. **When return required—Date of filing.**—A return on Form 706 is required in the case of every resident or citizen (or resident, without regard to citizenship, if the decedent died prior to the enactment of the Revenue Act of 1934), whose gross estate, as defined in the statute, exceeded $50,000 in value at the date of death, except that if the decedent died subsequent to the effective date of the Revenue Act of 1926 (10.25 a. m., eastern standard time, February 26, 1926) and prior to the effective date of the Revenue Act of 1932 (5 p. m., eastern standard time, June 6, 1932), the return is required if the gross estate exceeded $100,000 in value at the date of death. In the case of a resident, the return must be filed with the collector in whose district the decedent had his domicile at the time of death. In the case of a nonresident citizen, it must be filed with the collector in whose district the gross estate in the United States was situated; or, if the gross estate in the United States was situated in more than one district, or, if no part of the gross estate was situated in the United States, it must be filed with the collector for the second district of New York, or with such collector as the Commissioner may designate. It must be filed in duplicate within one year after the date of death, or, in any particular instance, at such time prior to the expiration of such year as the Commissioner may designate. If the due date for filing

the return falls on a Sunday or on a legal holiday, the due date for filing will be the day following such Sunday or legal holiday. If placed in the mails the return should be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the date on which the return is required to be filed. If a return is made and placed in the mails in due course, properly addressed, and postage paid, in ample time to reach the office of the collector on or before the due date, no penalty will attach should the return not be actually received by such officer until subsequent to that date.

ART. 64. **Persons liable for return.**—The statute provides that the duly qualified executor or administrator shall file the return. If there is more than one executor or administrator, the return must be made jointly by all. If no executor or administrator has been appointed, every person in actual or constructive possession of any property of the decedent is constituted by the statute an executor for the purposes of the tax (section 300), and is required to make and file a return as provided by section 304. If, in any case, the executor is unable to make a complete return as to any part of the gross estate, he is required to give all the information he has as to such property, including a full description, and the name of every person holding a legal or beneficial interest in the property. If the executor is unable to make a return as to any property, the statute requires that every person holding a legal or beneficial interest therein shall, upon notice from the collector, make return as to such part of the gross estate. For penalties for delinquency in filing return, or for filing a false or fraudulent return, see articles 91, 92, and 94.

ART. 65. **Preparation of return.**—The return must be made on Form 706, copies of which will be supplied by the collector upon application. It must be filed in duplicate under oath and contain an itemized inventory by schedule of the property constituting the gross estate and lists of the deductions under the appropriate schedules. The return must set forth (1) the value of the gross estate (see articles 10–28), (2) the deductions allowed (see articles 29–48), (3) the value of the net estate, and (4) the tax paid or payable thereon. If the decedent died subsequent to the effective date of the Revenue Act of 1932 (5 p. m., eastern standard time, June 6, 1932), the return must set forth both the net estate determined in accordance with the provisions of the Revenue Act of 1926 and the net estate for the purposes of the additional tax imposed by the Revenue Act of 1932, which should be determined in the same manner except that in lieu of the exemption of $100,000 provided in section 303 (a)

(4) of the Revenue Act of 1926, the exemption is $50,000 (see article 48), and both the tax imposed by the Revenue Act of 1926 and the additional tax imposed by the Revenue Act of 1932. The tax payable upon a return filed for an estate subject to both the tax imposed by the Revenue Act of 1926 and the additional tax imposed by the Revenue Act of 1932 is the total of said taxes. The instructions printed on the form should be carefully followed. All documents and vouchers used in preparing the return should be retained by the executor so as to be available for inspection whenever required. Duplicate copies of the will, if the decedent died testate, one of which should be certified, must be submitted with the return, together with copies of such other documents as in Form 706 and in the applicable articles of these regulations are required. There may also be filed in duplicate copies of any documents which the executor may desire to submit with the return in explanation thereof.

In every case of an estate of a nonresident citizen who died after the date of the enactment of the Revenue Act of 1934, the executor should file the following documents with the return: (1) A copy of the inventory of property and the schedule of liabilities, claims against the estate and expenses of administration filed with the foreign court of probate jurisdiction, certified by a proper official of such court. (2) A copy of the return filed under the foreign inheritance, estate, legacy, or succession tax act, certified by a proper official of the foreign tax department, if the estate is subject to such a foreign tax.

ART. 66. **Supplemental data.**—The statute provides that the executor, in addition to filing notice and return, shall furnish such supplemental data as may be necessary to establish the correct tax (section 304). It is therefore the duty of the executor to furnish upon request copies of any documents in his possession relating to the estate, or on file in any court having jurisdiction over the estate, appraisal lists of any items included in the gross estate, copies of balance sheets or other financial statements relating to the value of stock, and any other information obtainable by him that may be found necessary in the determination of the tax. Failure to comply with such a request will render the executor liable to penalties (article 93), and proceedings may be instituted in the proper United States court to secure compliance therewith (section 1122 (a)).

Persons having possession or control of any records or documents containing or supposed to contain any information concerning the estate, or having knowledge or information of any fact or facts of a material bearing upon the liability, or the extent of liability, of the estate to the tax, shall, upon request of the Commissioner or any revenue agent or inspector designated by him for that purpose, make disclosure thereof. Failure on the part of any person to comply with such request will render him liable to penalties (article 93), and compliance with the request may be enforced in the proper United States court (section 1122 (a)).

DETERMINATION OF TAX BY COMMISSIONER

SEC. 306. As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

SEC. 313. * * * (b) If the executor makes written application to the Commissioner for determination of the amount of the tax and discharge from personal liability therefor, the Commissioner (as soon as possible, and in any event within one year after the making of such application, or, if the application is made before the return is filed, then within one year after the return is filed, but not after the expiration of the period prescribed for the assessment of the tax in section 310) shall notify the executor of the amount of the tax. The executor, upon payment of the amount of which he is notified, shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

ART. 67. **Examination of return and determination of tax by the Commissioner.**—As soon as practicable after returns are filed, they will be examined and the amount of the tax determined by the Commissioner under the procedure specifically prescribed in this article and under such further procedure as may be prescribed from time to time by the Commissioner. (See article 77.)

If it is practicable to do so, the Bureau will, in its discretion, or upon the executor's request to the Commissioner, make its field investigation simultaneously and in cooperation with the officials having in charge the matter of determining the amount of tax due the State or Territory by virtue of the decedent's death. Such investigation will extend to all questions in so far as they have bearing both upon the tax liability of the estate under the Federal estate tax law and the taxing act of the particular State or Territory, and comprehend the disclosure to the agents of the State or Territory of information contained in the return as well as that obtained upon investigation, provided a like cooperation is given by the agency of the State or Territory. Such disclosure may be made by the field investigating officer or his superiors, either during the investigation or subsequent thereto. The investigations made in cooperation with the State or Territory are, like all others, limited to an ascertainment of information to aid the Commissioner, who alone under the law is empowered to determine the tax, in arriving at a conclusion as to the Federal estate tax liability of the estate.

If the executor makes written application to the Commissioner for a determination of the tax and discharge from personal liability therefor, the Commissioner will within one year after receipt of such application, or if application is made before the return is filed, then within one year after the return is filed, notify the executor of the amount of the tax, and upon payment thereof, the executor will be discharged from personal liability for any deficiency in the tax thereafter found to be due. (See section 313 (b) and (c).)

EXTENSION OF TIME FOR FILING RETURN

> Revised Statutes, section 3176 (as amended by section 1103, Revenue Act of 1926, and section 619 (d), Revenue Act of 1928 [U. S. C., Sup. VII, title 26, section 1524]).
>
> * * * If the failure to file a return (other than a return of income tax) or a list is due to sickness or absence, the collector may allow such further time, not exceeding 30 days, for making and filing the return or list as he deems proper. * * *

Art. 68. **Extension of time by collector.**—In case of sickness or absence, collectors are authorized to grant an extension of time for filing the return for a period not in excess of 30 days from the due date, which extension may be granted either before or after the due date. An extension of time for filing the return does not in itself operate to extend the time for the payment of the tax, which is due and payable one year after the date of the decedent's death. For extension of time of payment, see article 82.

Art. 69. **Extension of time by Commissioner.**—If it is impossible for the executor to file a reasonably complete return within one year from the date of death, the Commissioner may, upon application from the executor showing good and sufficient cause, grant an extension of time not to exceed six months from the due date. Before the expiration of the extension period granted a return as complete as possible must be filed. The return thus filed will be the return required by section 304 (a) and any tax shown thereon will be the "amount determined by the executor as the tax" referred to in section 305 (b) and section 307. Such return can not thereafter be amended although supplemental information may subsequently be filed that may result in a finally determined tax different from the amount shown as the tax by the executor upon his return. An extension of time for filing the return does not operate to extend the time for the payment of the tax, which is due one year after the decedent's death. An extension of time in which to make payment of the tax may be secured as provided in article 82.

THE RETURN—ESTATES OF NONRESIDENT ALIENS

Art. 70. **Return of estates of nonresidents.**—A return on Form 706, copies of which may be obtained from the Commissioner of Internal Revenue, Washington, D. C., or from any United States collector of internal revenue, upon application, is required in the case of every nonresident alien (or nonresident, regardless of citizenship, if the decedent died prior to the enactment of the Revenue Act of 1934) any part of whose gross estate was situated (within the meaning of the statute, as to which see article 50) in the United States. The return must set forth an itemized list of that part of the gross estate situated in the United States and the total value thereof (see article 51), the deductions claimed, if any (see articles 52–54), the value of the net estate (see article 55), and the tax paid or payable thereon. If the decedent died subsequent to the effective date of the Revenue Act of 1932 (5 p. m., eastern standard time, June 6, 1932) and the value of the net estate exceeds $10,000, the return must set forth both the tax imposed by the Revenue Act of 1926 and the additional tax imposed by the Revenue Act of 1932. The return must be filed with the United States collector of internal revenue of the district in which such part of the gross estate was situated, or, if such part of the gross estate was situated in more than one district, it must be filed with the collector for the second district of New York, or with such collector as the Commissioner may designate. The return must be filed in duplicate and under oath within one year after the decedent's death, or, in any particular instance, at such time prior to the expiration of such year as the Commissioner may designate, unless an extension is obtained pursuant to article 68 or 69. If the due date for filing the return falls on a Sunday or on a legal holiday, the due date for filing will be the day following such Sunday or legal holiday. If placed in the mails the return should be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the date on which the return is required to be filed. If a return is made and placed in the mails in due course, properly addressed, and postage paid, in ample time to reach the office of the collector on or before the due date, no penalty will attach should the return not be actually received by such officer until subsequent to that date. The return should be made and filed by the executor or administrator appointed, qualified, and acting within the United States, or, if none, then by any person in actual or constructive possession of any property of the decedent situated (within the meaning of the statute) in the United States, whatever its value. If the qualified executor or administrator is unable to make a complete return as to any part of the gross estate, he is required to give all the information available to him as to such part, including a description thereof and the name of every person holding a legal or beneficial interest therein. As to the meaning of the term " person in actual or constructive possession of any property of the decedent," see article 60.

Art. 71. **Supplemental data.**—Pursuant to the provisions of section 304 (a), with respect to furnishing supplemental data, if the decedent is a nonresident alien (or a nonresident, regardless of citizenship, if the decedent died prior to the enactment of the Revenue Act of 1934), the executor is required to file with the return:

(1) A certified copy of will, if decedent died testate, or, if the decedent left several wills to govern in different jurisdictions, certified copy of each will.

(2) If any deductions are claimed, copy of inventory of property filed under the foreign death-duty act; or, if no such inventory was filed, a certified copy of inventory filed with the foreign court of probate jurisdiction.

The Commissioner may require the documents specified in paragraph (2) regardless of whether deductions are claimed. For requirements dealing with the duty to furnish other documents or information relating to the tax liability of the estate, and penalties in connection therewith, see article 66.

PRIVILEGED CHARACTER OF RETURNS

Art. 72. **Returns confidential.**—All estate tax returns and notices are treated as privileged communications and may not be exhibited other than to the executor or his duly authorized agent, except as stated in articles 67 and 73. This requirement will be rigidly enforced, and extends to information of a private nature submitted or obtained in connection with a return or notice. The requirement does not operate to prevent internal revenue officers from disclosing the returned value of any item or the amount of any specific deduction, if such disclosure is necessary in order to arrive at a correct determination of the tax. This right of disclosure, however, does not extend to such information as the amount of the estate, the amount of tax, or other general data. Nor are the records in possession of the Bureau, whether on file with the Commissioner or the collector, open to inspection, except as provided in articles 67 and 73. If a copy of the return is desired because no copy was retained by the executor or the retained copy has been lost or destroyed, or for other satisfactory reasons, such copy may be furnished by the Commissioner to the executor, or his authorized attorney, upon payment of the fee prescribed.

Art. 73. **Disclosure other than to executor.**—If any person other than the executor has a material interest in ascertaining any fact disclosed by the return, or in obtaining information as to the payment of the tax, or if an officer of a State or Territory requires information contained in a return or obtained upon investigation for his official use in connection with an estate, inheritance, legacy, or succession tax of the State or Territory, he shall make a written application to the Commissioner of Internal Revenue for such information, setting forth the nature of his interest and the purpose of the application. The Commissioner will review the application, and, if it is approved, the collector will be directed to exhibit the return to the applicant, or give him such information as is specified, or the Commissioner may permit an inspection of or furnish a copy of the return on file in the Bureau, or may furnish such information as he deems advisable.

Under no circumstances shall the collector give information to persons other than the executor except upon the written order of the Commissioner, and then only to the extent authorized by such order.

If an attorney or other person asks a ruling on a question of law arising in a specific case, the Commissioner will require satisfactory evidence of the right to obtain such ruling. Hypothetical questions, however, can not be answered.

Art. 74. **Attorneys must have authorization.**—In all cases in which information is sought regarding an estate, or an interview is asked, by an attorney or by any agent of the executor or administrator, the information or interview will be denied unless the attorney or agent presents a duly executed power of attorney from the executor or administrator authorizing the attorney or agent to act in his behalf.

No attorney or agent will be recognized as representing an estate or executor unless such attorney or agent is enrolled to represent claimants or others before the Treasury Department. For regulations governing enrollment, reference should be made to Treasury Department Circular No. 230, as revised, copies of which may be obtained upon application to the Secretary of the Committee on Enrollment and Disbarment, Treasury Department, Washington, D. C.

RETURN BY COLLECTOR OR COMMISSIONER

Revised Statutes, section 3176 (as amended by section 1103, Revenue Act of 1926 [U. S. C., Sup. VII, title 26, section 1512 (a)–(c)]).

If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner of Internal Revenue may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes. * * *

ART. 75. **No return filed, or a false or fraudulent return filed.**—Section 3176 of the Revised Statutes (U. S. C., Sup. VII, title 26, section 1512 (a)–(c)) provides that if any person fails to make and file a return at the time required, or makes, willfully or otherwise, a false or fraudulent return, the collector or deputy collector shall make a return. The Commissioner may also make a return or amend any return made by a collector or deputy collector. A return so made by the Commissioner, or made by the collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes. If a tax is found to be due upon such a return, both the estate and the executor will be liable for penalties as well as for the tax.

DEFICIENCY TAX

SEC. 307. As used in this title in respect of a tax imposed by this title the term "deficiency" means—

(1) The amount by which the tax imposed by this title exceeds the amount shown as the tax by the executor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax; or

(2) If no amount is shown as the tax by the executor upon his return, or if no return is made by the executor, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax.

SEC. 308. (a) (As amended by section 501, Revenue Act of 1934.) If the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the executor by registered mail. Within 90 days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day), the executor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. Except as otherwise provided in subdivision (d) or (f) of this section or in section 312 or 1001, no assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the executor, nor until the expiration of such 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

* * * * * * *

(e) The Board shall have jurisdiction to redetermine the correct amount of the deficiency, even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the executor, and to determine whether any additional amount or addition to the tax should be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) If after the enactment of this Act the Commissioner has mailed to the executor notice of a deficiency as provided in subdivision (a), and the executor files a petition with the Board within the time prescribed in such subdivision, the Commissioner shall have no right to determine any additional deficiency, except in the case of fraud, and except as provided in subdivision (e) of this section or in subdivision (c) of section 312. If the executor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered for the purposes of this subdivision or of subdivision (a) of this section, or of section 319, as a notice of a deficiency, and the executor shall have no right to file a petition with the Board of Tax Appeals based on such notice, nor shall such assessment or collection be prohibited by the provisions of subdivision (a) of this section.

SEC. 318. (a) If after the enactment of this Act the Commissioner determines that any assessment should be made in respect of any estate or gift tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, the Revenue Act of 1921, or the Revenue Act of 1924, or by any such Act as amended, the Commissioner is authorized to send by registered mail to the person liable for such tax notice of the amount proposed to be assessed, which notice shall, for the purposes of this Act, be considered a notice under subdivision (a) of section 308 of this Act. In the case of any such determination the amount which should be assessed (whether as deficiency or additional tax or as interest, penalty, or other addition to the tax) shall be computed as if this Act had not been enacted, but the amount so computed shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including the provisions in case of delinquency in payment after notice and demand and the provisions prohibiting claims and suits for refund) as in the case of a deficiency in the tax imposed by this title, except that in the case of an estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, the period of limitation prescribed in section 1109 of this

Act shall be applied in lieu of the period prescribed in subdivision (a) of section 310.

(b) If before the enactment of this Act any person has appealed to the Board of Tax Appeals under subdivision (a) of section 308 of the Revenue Act of 1924 (if such appeal relates to a tax imposed by Title III of such Act or to so much of an estate tax imposed by any of the prior Acts enumerated in subdivision (a) of this section as was not assessed before June 3, 1924), and the appeal is pending before the Board at the time of the enactment of this Act, the Board shall have jurisdiction of the appeal. In all such cases the powers, duties, rights, and privileges of the Commissioner and of the person who has brought the appeal, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (a) of this section, except as provided in subdivision (h) of this section and except that the person liable for the tax shall not be subject to the provisions of subdivision (a) of section 319.

(c) If before the enactment of this Act the Commissioner has mailed to any person a notice under subdivision (a) of section 308 of the Revenue Act of 1924 (whether in respect of a tax imposed by Title III of such Act or in respect of so much of an estate tax imposed by any of the prior Acts enumerated in subdivision (a) of this section as was not assessed before June 3, 1924), and if the 60-day period referred to in such subdivision has not expired before the enactment of this Act and no appeal has been filed before the enactment of this Act, such person may file a petition with the Board in the same manner as if a notice of deficiency had been mailed after the enactment of this Act in respect of a deficiency in a tax imposed by this title. In such cases the 60-day period referred to in subdivision (a) of section 308 of this Act shall begin on the date of the enactment of this Act, and the powers, duties, rights, and privileges of the Commissioner and of the person entitled to file the petition, and the jurisdiction of the Board and of the courts, shall, whether or not the petition is filed, be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (a) of this section.

(d) If any deficiency in any estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before the date of the enactment of this Act, and if the Commissioner, after the enactment of this Act, finally determines the amount of the deficiency, he is authorized to send by registered mail to the person liable for such tax notice of such deficiency, which notice shall, for the purposes of this Act, be considered a notice under subdivision (a) of section 308 of this Act. In the case of any such final determination the amount of the tax (whether as deficiency or additional tax or as interest, penalty, or other addition to the tax) shall be computed as if this Act had not been enacted, but the amount so computed shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including the provisions in cases of delinquency in payment after notice and demand, and the provisions relating to claims and suits for refunds) as in the case of a deficiency in the tax imposed by this title, except as otherwise provided in subdivision (g) of this section, and except that the period of limitation prescribed in section 1109 of this Act shall be applied in lieu of the period prescribed in subdivision (a) of section 310.

(e) If any deficiency in any estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before that date, and if the Commissioner after June 2, 1924, but before the enactment of this Act, finally determined the amount of the deficiency, and if the person liable for such tax appealed before the enactment of this Act to the Board of Tax Appeals and the appeal is pending before the Board at the time of the enactment of this Act, the Board shall have jurisdiction of the appeal. In all such cases the powers, duties, rights, and privileges of the Commissioner and of the person who has brought the appeal, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (d) of this section, except as provided in subdivision (h) of this section and except that the person liable for the tax shall not be subject to the provisions of subdivision (a) of section 319.

(f) If any deficiency in any estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before the date of the enactment of this Act, and if the Commissioner after June 2, 1924, finally determined the amount of the deficiency, and notified the person liable for such tax to that effect less than 60 days prior to the enactment of this Act and no appeal has been filed before the enactment of this Act, the person so notified may file a petition with the Board in the same manner as if a notice of deficiency had been mailed after the enactment of this Act in respect of a deficiency in a tax imposed by this title. In such cases the 60-day period referred to in subdivision (a) of section 308 of this Act shall begin on the date of the enactment of this Act, and, whether or not the petition is filed, the powers, duties, rights, and privileges of the Commissioner and of the person who is so notified, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax be made, in the same manner as provided in subdivision (d) of this section.

(g) In cases within the scope of subdivision (d), (e), or (f), if the Commissioner believes that the collection of the deficiency will be jeopardized by delay, he may, despite the provisions of subdivision (a) of section 308 of this Act, instruct the collector to proceed to enforce the payment of the unpaid portion of the deficiency, and notice and demand shall be made by the collector for the payment thereof. Within 30 days after such jeopardy notice and demand the person liable for the tax may obtain a stay of collection of the whole or any part of the amount included in the notice and demand by filing with the collector a bond in like manner, under the same conditions, and with the same effect, as in the case of a bond to stay the collection of a jeopardy assessment under section 312 of this Act.

(h) In cases within the scope of subdivision (b) or (e) of this section where any hearing before the Board has been held before the enactment of this Act and the decision is rendered after the enactment of this Act, such decision shall, for the purposes of this title, be considered to have become final upon the date when it is rendered, and neither party shall have any right to petition for a review of the decision. The Commissioner may, within one year from the time the decision is rendered, begin a proceeding in court for the collection of any part of the amount disallowed by the Board, unless the statutory period of limitations properly applicable thereto has expired before the appeal was taken to the Board. The court shall include in its judgment interest upon the amount thereof in the same cases, at the same rate, and for the same period, as if such amount were collected otherwise than by proceeding in court. In any such proceeding by the Commissioner or in any suit by the taxpayer for a refund, the findings of the Board shall be prima facie evidence of the facts therein stated.

(i) Where before the enactment of this Act a jeopardy assessment has been made under subdivision (d) of section 308 of the Revenue Act of 1924 (whether of a deficiency in the tax imposed by Title III of such Act or of a deficiency in an estate tax imposed by any of the prior Acts enumerated in subdivision (a) of this section) all proceedings after the enactment of this Act shall be the same as under the Revenue Act of 1924 as amended by this Act, except that—

(1) A decision of the Board rendered after the enactment of this Act where no hearing has been held by the Board before the enactment of this Act may be reviewed in the same manner as provided in this Act in the case of a tax imposed by this title;

(2) Where no hearing has been held by the Board before the enactment of this Act, the Commissioner shall have no right to begin a proceeding in court for the collection of any part of the deficiency disallowed by the Board; and

(3) In the consideration of the case the jurisdiction and powers of the Board shall be the same as provided in this Act in the case of a tax imposed by this title.

(j) In the case of any estate or gift tax imposed by prior Act of Congress, in computing the period of limitations provided in section 310 or 311 of this Act on the making of assessments and the beginning of distraint or a proceeding in court, the running of the statute of limitations shall be considered to have been suspended (in addition to the period of suspension provided for in subdivision (b) of section 310) for any period of time prior to the enactment of this Act during which the Commissioner was prohibited from making the assessment or beginning distraint or proceeding in court.

Sec. 606. Revenue Act of 1928.

(a) **Authorization.**—The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal-revenue tax for any taxable period ending prior to the date of the agreement.

(b) **Finality of agreement.**—If such agreement is approved by the Secretary, or the Undersecretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

(c) Section 1106(b) of the Revenue Act of 1926 is repealed, effective on the expiration of 30 days after the enactment of this Act, but such repeal shall not affect any agreement made before such repeal takes effect.

Art. 76. **Deficiency, petitions, and closing agreements.**—Section 307 by its definition of the word "deficiency" provides a term which will apply to any amount of tax determined to be due in excess of the amount of tax reported by the executor, or in excess of the amount reported by the executor as adjusted by way of prior assessments, abatements, refunds, or collections without assessment. In defining the term "deficiency" section 307 recognizes two classes of cases—one, in which the executor makes a return showing some tax liability; the other, in which the executor makes a return showing no tax liability, or in which the executor fails to make a return. Additional tax, resulting from supplemental information filed after the return has been filed, is a deficiency within the meaning of the Act.

When a case is considered for the first time, the deficiency is the excess of the amount determined to be the correct amount of the tax over the amount shown as the tax by the executor on his return, or, if it is a case in which no tax was reported by the executor, the deficiency is the amount determined to be the correct amount of the tax. Subsequent information sometimes discloses that the amount previously determined to be the correct amount of the tax is less than the correct amount, and that a redetermination of the tax is necessary. In such a case the deficiency on redetermination is the excess of the amount determined to be the correct amount of the tax over the sum of the amount of tax reported by the executor and the deficiency assessed in connection with the previous determination. If it is a case in which no tax was reported by the executor, the deficiency is the excess of the amount determined to be the correct amount of the tax over the amount of the deficiency disclosed by the previous determination. If the previous determination resulted in a refund to the executor, the deficiency upon the second determination is the excess of the amount determined to be the correct amount of the tax over the amount of tax reported by the executor decreased by the amount of the refund.

In all cases in which a deficiency in respect of a tax (including penalties or other additions to the tax provided by law) is determined by the Commissioner, a notice thereof will be sent to the executor by registered mail in accordance with the provisions of section 308 (a) of the statute even though a jeopardy assessment (see article 77) is made. If, subsequent to the mailing of such notice, a jeopardy assessment is made in respect of the deficiency to which such notice relates no subsequent notice will be sent to the executor by the Commissioner, but if such jeopardy assessment is made, and the amount thereof is in excess of the deficiency to which the notice relates, the Commissioner will mail a notice to the executor as required by section 308 (a) of the determination of such additional deficiency provided no petition has theretofore been filed with the Board of Tax Appeals. If a deficiency is determined in respect of both the tax imposed by the Revenue Act of 1926 and the additional tax imposed by the Revenue Act of 1932, notice of both deficiencies may be incorporated in the same communication.

Within 90 days (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day) after the mailing of the registered letter notifying him of the final determination of a deficiency by the Commissioner, the executor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency, other than a deficiency resulting from the correction of a mathematical error appearing upon the return. If notice of the deficiency is mailed prior to, or within 30 days after, the enactment of the Revenue Act of 1934, the period within which a petition may be filed with the Board is 60 days (not counting Sunday as the sixtieth day) after mailing of the notice. (See article 77.) The right to file a petition with the Board exists whether the decedent died prior or subsequent to the enactment of the Revenue Act of 1926.

The executor and the Commissioner (or any officer or employee authorized by the Commissioner), subject to approval by the Secretary or the Under Secretary of the Treasury, may, under the provisions of section 606 of the Revenue Act of 1928, enter into a closing agreement in writing relating to the tax liability of the estate which will be final and conclusive except upon a showing of fraud or malfeasance, or misrepresentation of a material fact.

ASSESSMENT OF TAX

SEC. 308. * * * (b) If the executor files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) If the executor does not file a petition with the Board within the time prescribed in subdivision (a) of this section, the deficiency, notice of which has been mailed to the executor, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) The executor shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subdivision (a) of this section on the assessment and collection of the whole or any part of the deficiency.

(e) The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the executor, and to determine whether any additional amount or addition to the tax should be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) If after the enactment of this Act the Commissioner has mailed to the executor notice of a deficiency as provided in subdivision (a), and the executor files a petition with the Board within the time prescribed in such subdivision, the Commissioner shall have no right to determine any additional deficiency, except in the case of fraud, and except as provided in subdivision (e) of this section or in subdivision (c) of section 312. If the executor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered, for the purposes of this subdivision or of subdivision (a) of this section, or of section 319, as a notice of a deficiency, and the executor shall have no right to file a petition with the Board of Tax Appeals based on such notice, nor shall such assessment or collection be prohibited by the provisions of subdivision (a) of this section.

(g) For the purposes of this title the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1005.

SEC. 310. (a) Except as provided in section 311, the amount of the estate taxes imposed by this title shall be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed.

(b) The running of the statute of limitations provided in this section or in section 311 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under subdivision (a) of section 308) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court, and for 60 days thereafter.

SEC. 311. (a) In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(b) Where the assessment of any tax imposed by this title or of any estate or gift tax imposed by prior Act of Congress has been made (whether before or after the enactment of this Act) within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this Act), but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the executor.

(c) This section shall not bar a distraint or proceeding in court begun before the enactment of the Revenue Act of 1924; nor shall it authorize the assessment of a tax or the collection thereof by distraint or by proceeding in court (1) if at the time of the enactment of this Act such assessment, distraint, or proceeding was barred by the statutory period of limitation properly applicable thereto, unless prior to the enactment of this Act the Commissioner and the executor agreed in writing thereto, or (2) contrary to the provisions of subdivision (a) of section 308 of this Act.

Sec. 312. (a) If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under subdivision (a) of section 308, then the Commissioner shall mail a notice under such subdivision within 60 days after the making of the assessment.

(c) The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the executor, despite the provisions of subdivision (f) of section 308 and whether or not the executor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner shall notify the Board of the amount of such assessment, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

(e) A jeopardy assessment may not be made after the decision of the Board has become final or after the executor has filed a petition for review of the decision of the Board.

(f) When a jeopardy assessment has been made the executor, within 30 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in subdivision (j) of this section.

(g) If the bond is given before the executor has filed his petition with the Board under subdivision (a) of section 308, the bond shall contain a further condition that if a petition is not filed within the period provided in such subdivision, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subdivision.

* * * * * * *

(i) When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be refunded. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

Sec. 318. (a) If after the enactment of this Act the Commissioner determines that any assessment should be made in respect of any estate or gift tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, the Revenue Act of 1921, or the Revenue Act of 1924, or by any such Act as amended, the Commissioner is authorized to send by registered mail to the person liable for such tax notice of the amount proposed to be assessed, which notice shall, for the purposes of this Act, be considered a notice under subdivision (a) of section 308 of this Act. In the case of any such determination the amount which should be assessed (whether as deficiency or additional tax or as interest, penalty, or other addition to the tax) shall be computed as if this Act had not been enacted, but the amount so computed shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including the provisions in case of delinquency in payment after notice and demand and the provisions prohibiting claims and suits for refund) as in the case of a deficiency in the tax imposed by this title, except that in the case of an estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, the period of limitation prescribed in section 1109 of this Act shall be applied in lieu of the period prescribed in subdivision (a) of section 310.

Sec. 1109 (as amended by section 619 (a), Revenue Act of 1928). (a) Except in the case of * * * estate, and gift taxes—

(1) Notwithstanding the provisions of section 3182 of the Revised Statutes or any other provision of law, all internal-revenue taxes shall (except as provided in paragraph (2) or (3) of this subdivision) be assessed within four years after such taxes became due, and no proceeding in court without assessment for the collection of such taxes

shall be begun after the expiration of five years after such taxes became due.

(2) In case of a false or fraudulent return with intent to evade tax, of a failure to file a return within the time required by law, or of a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(3) Where the assessment of any tax imposed by this Act or by prior Act of Congress has been made (whether before or after the enactment of this Act) within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this Act), but only if begun (A) within six years after the assessment of the tax, or (B) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer.

(b) This section shall not bar a distraint or proceeding in court begun before the enactment of the Revenue Act of 1924; nor shall it authorize the assessment of a tax or the collection thereof by distraint or by proceeding in court if at the time of the enactment of this Act such assessment, distraint, or proceeding was barred by the statutory period of limitation properly applicable thereto, unless prior to the enactment of this Act the Commissioner and the taxpayer agreed in writing thereto.

Sec. 402. Revenue Act of 1928.

(a) Section 310 (b) of the Revenue Act of 1926 is amended to read as follows:

"(b) The running of the statute of limitations provided in this section or in section 311 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under subdivision (a) of section 308) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter."

(b) Subsection (a) of this section shall apply in all cases where the period of limitation has not expired prior to the enactment of this Act.

Sec. 403. Revenue Act of 1932.

Except as provided in section 402, the tax imposed by section 401 of this Act shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by section 301 (a) of the Revenue Act of 1926, except that in the case of a resident decedent a return shall be required if the value of the gross estate at the time of the decedent's death exceeds $50,000.

Sec. 808. Revenue Act of 1932.

(a) Section 305 (b) of the Revenue Act of 1926 is amended to read as follows:

> "(b) Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed eight years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension. * * *"

(b) Section 308 (i) of the Revenue Act of 1926 is amended to read as follows:

> "(i) Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the estate, the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of four years. If an extension is granted, the Commissioner may require the executor to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension. In such case the running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension. * * *."

Art. 77. **Assessments.**—In any case in which the Commissioner believes that the assessment or collection of a deficiency tax will be jeopardized by delay, he will make an immediate assessment thereof whether the decedent died before or after the passage of the Revenue Act of 1926. In such case the assessment may be made before the mailing of the notice provided by section 308 (a), or at any time thereafter prior to the filing of a petition for a review by the court of a decision rendered by the Board. If the jeopardy assessment is made subsequent to a decision of the Board, then the assessment is limited to the amount of the deficiency determined by the Board. If the jeopardy assessment is made before any notice in respect of the deficiency to which the jeopardy assessment relates has been mailed under subdivision (a) of section 308, the Commissioner will mail a notice as provided by such subdivision within 60 days after the making of such jeopardy assessment.

If an amount of tax in excess of that shown upon the return is determined to be due as a result of the correction of a mathematical error appearing upon the face of the return, the executor will be duly notified and an assessment made of the tax which would have been the correct tax but for the mathematical error. The notice that the correct amount of the tax has been assessed will not be a notice of a deficiency within the meaning of subdivision (a) of section 308 or section 319 and the executor has no right to file a petition with the Board of Tax Appeals based upon such notice.

If a petition is filed with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final will be assessed, except such portion as may have been assessed as a jeopardy assessment. If no petition is filed with the Board within the time prescribed in section 308 (a), the deficiency, notice of which has been mailed to the executor, will be assessed. If the executor by a signed notice in writing filed with the Commissioner waives the restrictions on the assessment and collection of the whole or any part of a deficiency, assessment of such whole or part will be made immediately. (As to payment, see articles 78 to 85, inclusive.)

All assessments against executors (as to assessments against transferees and fiduciaries, see article 105), except in the case of a false or fraudulent return, or of a failure to file a return within the time required by law, must be made within three years after the return was filed (four years after the due date of the tax if the decedent died prior to the effective date of the Revenue Act of 1924). If notice of a deficiency is mailed in accordance with the provisions of subdivision (a) of section 308, then the period within which assessment thereof is required to be made is extended for the period during which the Commissioner is prohibited from making the assessment and for 60 days thereafter. If a proceeding in respect of the deficiency is placed on the docket of the Board, the period within which assessment is required to be made is extended until the decision of the Board becomes final and for 60 days thereafter. If an extension of time for payment of the tax is granted in accordance with section 305 (b) or section 308 (i) as amended by section 808 of the Revenue Act of 1932, the period within which assessment is required to be made is extended by the time covered by such extension.

In case of a false or fraudulent return with intent to evade the tax, or of a failure to file a required return, the tax may be assessed, or proceedings in court for collection may be begun without assessment, at any time.

PAYMENT OF AND RECEIPTS FOR TAXES

SEC. 305. (a) The tax imposed by this title shall be due and payable one year after the decedent's death, and shall be paid by the executor to the collector. * * *

SEC. 308. * * * (b) If the executor files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. * * *

(c) If the executor does not file a petition with the Board within the time prescribed in subdivision (a) of this section, the deficiency, notice of which has been mailed to the executor, shall be assessed, and shall be paid upon notice and demand from the collector. * * *

SEC. 313. (a) The collector shall grant to the person paying the tax duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts. * * *

SEC. 1118. (a) Collectors may receive, * * * uncertified checks in payment of income, war-profits, and excess-profits taxes and any other taxes payable other than by stamp, during such time and under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions to the same extent as if such check had not been tendered.

ART. 78. **Payment of tax; General.**—The tax is due and must be paid within one year from the date of the decedent's death, unless an extension of time for payment thereof has been granted by the Commissioner. (See also article 9.) No discount will be allowed for payment in advance of the due date. The collector will grant to the person paying the tax duplicate receipts, either of which will be sufficient evidence of such payment and entitle the executor to be credited with the amount by any court having jurisdiction to audit or settle his accounts.

Following an investigation of the return, the tax liability will be determined by the Commissioner. If the amount of tax shown on the return has been paid and exceeds the amount of tax as determined, a certificate of overassessment will be prepared and issued, regardless of whether or not a claim for refund of such excess payment is filed unless refundment of such excess is barred by the statute of limitations, or such excess is otherwise not refundable, as in the case of a compromise (see article 101), a closing agreement (see article 76) conclusively fixing the amount of tax liability, or an estoppel. If the amount of tax as determined exceeds the amount of tax already paid but is less than the amount shown on the return, the executor will be notified of the amount of the unpaid tax and payment thereof should be made to the collector. If the audit of the return does not disclose a deficiency tax or overpayment the executor will be notified to that effect. If, as a result of the audit of the return, a deficiency in respect of the tax is finally determined and such deficiency is in whole or in part assessed (see article 77), the executor should pay the amount of the deficiency assessed upon notice and demand from the collector, except in the case a stay of the collection of a jeopardy assessment is obtained by the filing of a bond (see article 96), or an extension of time for payment is granted (see article 83). Until any tax determined by the Commissioner, including any deficiency, is assessed, the executor should reserve a sufficient portion of the estate to satisfy any unpaid assessment.

Art. 79. The executor shall pay the tax.—The statute provides that the executor shall pay the tax. This duty applies to the entire tax, regardless of the fact that the gross estate consists in part of property which will not come into his possession. If there is no duly qualified executor or administrator, all persons in actual or constructive possession of any property of the decedent are liable for and required to pay the tax to the extent of the value of such property. (See also article 88. As to the personal liability of the executor, see article 102.)

Art. 80. Payment by check.—Collectors may accept uncertified checks in payment of the tax, provided such checks are collectible at par, that is, for the full amount, without any deduction for exchange or other charges. The collector will stamp upon the face of each check before deposit thereof the words "This check is in payment of an obligation to the United States and must be paid at par. No protest." This should be followed by his name and title. The day on which the check is received will be considered the date of payment so far as the taxpayer is concerned, unless the check is returned dishonored. If the bank on which a check is drawn should refuse to pay it at par, the check should be returned through the depositary bank.

All expenses incident to the attempt to collect such a check and the return of it through the depositary bank must be paid by the drawer of the check to the bank on which it is drawn. (See section 3210 of the Revised Statutes, as amended, reenacted by section 1128 (b) of the Revenue Act of 1926.) In the case a check has been returned uncollected by the depositary bank, the collector should proceed to collect the tax as though no check had been given, and the taxpayer will remain liable for payment of the tax and for all interest, legal penalties and additions, if any attach, to the same extent as though such check had not been tendered. A taxpayer who tenders a certified check in payment of the tax is not released from his obligation until the check has been paid. (See ch. 191 of the Act of March 2, 1911.)

Treasury Department Circular No. 176, as amended, prescribes detailed regulations governing the deposit and collection of checks. Collectors are referred to paragraphs 13–16 and paragraph 26 thereof as to the deposit of taxpayers' checks and the handling of uncollected or lost items.

Art. 81. Payment by bonds or notes.—Payment of the tax may be made with bonds or notes of the United States issued under the provisions of the First Liberty Loan Act and the Second Liberty Loan Act, as amended, bearing interest at a higher rate than 4 per cent per annum, provided they were owned by the decedent continuously for at least six months prior to the date of his death, and upon such date constituted a part of his estate. Such bonds and notes are receivable at par and interest accrued at the time of the payment. When such bonds or notes are to be tendered in payment of the tax, a copy of Department Circular No. 225, as heretofore or hereafter amended or supplemented, should be procured and the requirements thereof carefully noted.

EXTENSION OF TIME FOR PAYMENT OF TAX

Sec. 808. Revenue Act of 1932.

(a) Section 305(b) of the Revenue Act of 1926 is amended to read as follows:

"(b) Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed eight years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection, as provided in sections 310(a) and 311(b), shall be suspended for the period of any such extension. If an extension is granted, the Commissioner may require the executor to furnish a bond in such amount, not exceeding double the amount in respect of which the extension is granted, and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension."

(b) Section 308(i) of the Revenue Act of 1926 is amended to read as follows:

"(i) Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the estate, the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of four years. If an extension is granted, the Commissioner may require the executor to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension. In such case the running of the statute of limitations for assessment and collection, as provided in sections 310(a) and 311(b), shall be suspended for the period of any such extension, and there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 1 per centum a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period."

SEC. 811. Revenue Act of 1932.

(a) Section 305 of the Revenue Act of 1926 is amended by adding at the end thereof a new subdivision to read as follows:

"(e) Where there is included in the value of the gross estate the value of a reversionary or remainder interest in property, the payment of the part of the tax imposed by this title attributable to such interest may, at the election of the executor, be postponed until six months after the termination of the precedent interest or interests in the property, and the amount the payment of which is so postponed shall then be payable, together with interest thereon at the rate of 4 per centum per annum from eighteen months after the date of the decedent's death until such amount is paid. The postponement of payment of such amount shall be under such regulations as the Commissioner with the approval of the Secretary may prescribe, and shall be upon condition that the executor, or any other person liable for the tax, shall furnish a bond in such an amount, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment within six months after the termination of such precedent interest or interests of the amount the payment of which is so postponed, together with interest thereon, as above provided. Such part of any estate, inheritance, legacy, or succession taxes allowable as a credit against the tax imposed by this title as is attributable to such reversionary or remainder interest may be allowed as a credit against the tax attributable to such interest, subject to the percentage limitation contained in section 301(c), if such part is paid, and credit therefor claimed, at any time prior to the expiration of 60 days after the termination of the precedent interest or interests in the property."

(b) The amendment to section 305 of the Revenue Act of 1926 made by subsection (a) of this section, shall not apply, in the case of estates of decedents dying prior to the date of the enactment of this Act, to that part of any payment of Federal estate taxes made prior to such date which is attributable to a reversionary or remainder interest in property.

ART. 82. **(a) Extension of time for payment of tax shown on return.**—In any case in which the Commissioner finds that payment, on the due date, of the tax shown on the return would impose undue hardship upon the estate, an extension or extensions of time will be granted for the payment of the tax for a period not to exceed in all eight years from the due date. Extensions of time for tax payment will be granted only in exceptional cases, and those in which it is evident that the payment of the tax on or before the due date would impose upon the estate undue hardship. What constitutes " undue hardship " depends upon the facts in the particular case.

An application for an extension of time for the payment of the tax must be in writing and must contain, or be supported by, sufficient information under oath from which the Commissioner may determine whether undue hardship would result if the requested extension were refused.

As a condition to the granting of such an extension the Commissioner may require that a penal bond be furnished in an amount not exceeding double the amount for which the extension is desired. If a bond is to be furnished it must be filed with the collector within 10 days after notification by the Commissioner that such bond is required, and shall be conditioned upon the payment, in accordance with the terms of the extension granted, of the tax involved, including any interest thereon, and shall be executed by a surety or sureties, and shall be subject to the approval of the Commissioner. In lieu of such surety or sureties the bond may be secured by deposit of Liberty bonds or other bonds or notes of the United States in a sum equal at their par value to the amount of such bond.

No single extension for more than one year will be granted. Application for extension of time for payment should be filed with the collector, who will refer it to the Commissioner with suitable recommendations.

An extension of time to pay the tax does not relieve the executor from the duty of filing the return on or before the date fixed by the regulations, nor will it operate to prevent the running of interest. (See articles 84 and 85.) An extension of time to pay the tax may extend the period within which taxes allowed as a credit by section 301 (c) are required to be paid and the credit therefor claimed. (See article 9.) The running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), is suspended for the period of the extension. (See articles 77 and 105.)

All applications for extensions of time for payment of tax must be made before the due date of such tax. If the executor desires to obtain an additional extension, the application therefor must be filed with the collector on or before the date of the expiration of the previous extension.

The granting of an extension of time for paying the tax is discretionary with the Commissioner and such authority will be exercised under such conditions as he may deem advisable.

(b) Extension of time for payment of tax attributable to a reversionary or remainder interest.—In the case there is included in the value of the gross estate the value of a reversionary or remainder interest in property, the payment of the part of the tax attributable to such interest, except such part of such tax as was paid prior to the enactment of the Revenue Act of 1932, may, at the election of the executor, be postponed until six months after the termination of the precedent interest or interests in the property. This provision is limited to cases in which the reversionary or remainder interest is included in the decedent's gross estate as such and does not extend to cases in which the decedent creates future estates by his own testamentary act.

Notice of the exercise of the election to postpone the payment of the tax attributable to a reversionary or remainder interest should be filed with the Commissioner before the date prescribed for payment of the tax. There should be filed with the notice of election a certified copy of the will or other instrument under which the reversionary or remainder interest was created. The Commissioner may require the submission of such additional proof as is deemed necessary to disclose the complete facts. If the duration of the precedent interest is dependent upon the life of any person, the application must show the date of birth of such person.

As a prerequisite to the postponement of the payment of the tax attributable to a reversionary or remainder interest, a bond must be furnished in such an amount (at least double the amount of the tax and interest for the estimated duration of the precedent interest), and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the tax and interest accrued thereon within six months after the termination of the precedent interest. In case the duration of the precedent interest is dependent upon the life or lives of any person or persons, or is otherwise indefinite, the bond must be further conditioned upon the principal or surety promptly notifying the Commissioner when such precedent interest terminates and upon the principal or surety notifying the Commissioner during the month of September of each year as to the continuance of the precedent interest. If after the acceptance of a bond it is determined that the amount of the tax attributable to the reversionary or remainder interest was understated in the bond, a new bond or a supplemental bond may be required, or such tax to the extent of the understatement may be collected.

If the decedent's gross estate consists of both a reversionary or remainder interest in property and other property the tax attributable to the reversionary or remainder interest within the meaning of section 811 of the Revenue Act of 1932 and this article is an amount which bears the same ratio to the total tax which the value of the reversionary or remainder interest bears to the entire gross estate, subject to the following qualification: In determining the ratio the value of the reversionary or remainder interest should be reduced by (1) the amount of claims, mortgages, and indebtedness which are a lien upon such interest; (2) losses in respect of such interest during the settlement of the estate which are deductible under the provisions of subdivisions (a) (1) and (b) (1) of section 303; (3) any amount in respect of such interest identified as previously taxed property under the provisions of subdivisions (a) (2) and (b) (2) of section 303; (4) any amount deductible on account of devises or bequests of such interests to charitable, etc., uses as described in subdivisions (a) (3) and (b) (3) of section 303. In determining the ratio, the gross estate should likewise be reduced by such deductions having similar relationship to items in the gross estate other than the remainder or reversionary interest.

If the time for payment of the Federal estate tax attributable to a reversionary or remainder interest in property is postponed, all estate, inheritance, legacy, or succession taxes allowable as a credit under the provisions of section 301 (c) of the Revenue Act of 1926, as amended, which are paid and for which credit is claimed within the period provided in such section, will be allowed not to exceed 80 per cent, respectively, of that portion of the Federal estate tax attributable to such interest and to that portion attributable to the other property, and will be applied first to the respective portion of the Federal estate tax which is attributable to the same interests in property to which the estate, inheritance, legacy, or succession taxes are attributable. Estate, inheritance, legacy, or succession taxes, as described in section 301 (c) of the Revenue Act of 1926, as amended, which are attributable to the reversionary or remainder interest and which are paid and for which credit is claimed after the expiration of the period provided in section 301 (c) will also be allowed as a credit against the Federal estate tax attributable to such interest (limited by the requirement that the total credit may not exceed 80 per cent of the total Federal estate tax) if such taxes are paid and credit therefor is claimed prior to the expiration of 60 days after the termination of the preceding interest or interests in the property.

Example: The Federal estate tax attributable to the reversionary or remainder interest is $5,000, and that attributable to all other property is $10,000. The estate, inheritance, legacy, or succession taxes paid to the State within the 4-year period are $9,000, all attributable to property other than the reversionary or remainder interest. Of this $9,000, the maximum of $8,000 is credited against the Federal estate tax of $10,000 attributable to property other than the reversionary or remainder interest, and the balance of $1,000 is credited to the Federal estate tax attributable to the reversionary interest. Accordingly, the estate will be required to pay $2,000 (Federal estate tax of $10,000 attributable to property other than the reversionary or remainder interest, minus the credit of $8,000) at once, and an extension will be allowed for payment of $4,000 (Federal estate tax of $5,000 attributable to the reversionary interest, minus credit of $1,000). After expiration of the 4-year period, but before expiration of 60 days after termination of the life estate or precedent interest, the estate pays additional State estate, inheritance, legacy, or succession taxes of $5,000 attributable to the reversionary or remainder interest. As the maximum credit is $12,000 (80 per cent of $15,000, the total Federal estate tax) and $9,000 has already been allowed, there will be an additional allowance of $3,000, and the estate will be required to pay $1,000 at the end of the extension period.

If any estate, inheritance, legacy, or succession taxes are imposed by any of the several States, Territories, or the District of Columbia upon a reversionary or a remainder interest in property and other property, without definitely apportioning the tax between such classes of property, for the purposes of this article the amount of such estate, inheritance, legacy, or succession taxes which will be deemed to be attributable to the reversionary or remainder interest will be an amount which bears the same ratio to the total of such taxes as the value of such property bears to the value of the decedent's entire estate upon which the estate, inheritance, legacy, or succession tax was imposed. In determining the ratio, reduction will be made in the value of the reversionary or remainder interest and the value of the gross estate as previously provided in this article for determining the Federal estate tax attributable to the reversionary or remainder interest.

If any part of the tax was paid prior to the enactment of the Revenue Act of 1932, and the gross estate consists of both a reversionary or remainder interest and other property, the portion of the tax so paid attributable to the reversionary or remainder interest is an amount which bears the same ratio to the total tax so paid which the entire tax attributable to the remainder or reversionary interest, computed as provided in this article, bears to the total tax.

The amount of tax the payment of which is postponed under the provisions of section 811 of the Revenue Act of 1932 bears interest at the rate of 4 per cent per annum from 18 months after the date of the decedent's death until such amount is paid. (See article 84 (b).)

ART. 83. Extension of time for payment of deficiency tax.—In any case in which the Commissioner finds that payment of the deficiency tax upon the date prescribed for the payment thereof would impose undue hardship upon the estate, an extension or extensions of time will be granted for payment, with the approval of the Secretary, for a period not to exceed in all four years from the date prescribed for the payment of the deficiency. Extension of time for such payment will be granted only in exceptional cases and those in which it is evident that payment on or before the date prescribed for payment of the deficiency would impose undue hardship. This provision applies to all estates, regardless of the date of the decedent's death.

What constitutes " undue hardship " depends upon the facts in the particular case. No extension will be granted where the deficiency is due to negligence or intentional disregard of the rules and regulations, or to fraud with intent to evade the tax.

Any application for an extension of time for the payment of a deficiency must be in writing and must contain, or be supported by, information under oath showing wherein undue hardship would result if the extension were refused.

As a condition to the granting of such an extension the Commissioner may require that a penal bond be furnished in an amount not exceeding double the amount of the deficiency. If a bond is to be furnished it must be filed with the collector within 10 days after notification by the Commissioner that such bond is required, and shall be conditioned upon the payment of the deficiency in accordance with the terms of the extension granted, including interest upon the deficiency, as prescribed by the statute (see article 85), until the deficiency is paid, and shall be executed by a surety or sureties and shall be subject to the approval of the Commissioner. In lieu of such surety or sureties the bond may be secured by deposit of Liberty bonds or other bonds or notes of the United States in a sum equal at their par value to the amount of such bond. No single extension for more than one year will be granted. Application for extension of time for payment should be filed with the collector. The collector will refer the application to the Commissioner with suitable recommendations.

Application for extension of time for payment of a deficiency must be made on or before the date prescribed for payment thereof, as shown by the notice and demand from the collector. If the executor desires to obtain an additional extension, the application therefor must be filed with the collector on or before the date of the expiration of the previous extension.

An extension of time to pay the deficiency will not operate to prevent the running of interest. (See article 85.) An extension of time to pay the deficiency may extend the period within which taxes allowed as a credit by section 301 (c) are required to be paid and the credit therefor claimed. (See article 9.) The running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), is suspended for the period of the extension.

(See articles 77 and 105.) No extension of time for paying a deficiency will be granted until after the assessment thereof and notice and demand for payment has been made by the collector.

The granting of an extension of time for paying the deficiency is discretionary with the Commissioner and the Secretary, and such authority will be exercised under such conditions as may be deemed advisable.

INTEREST ON TAX

Sec. 309. (a) (1) Where the amount determined by the executor as the tax imposed by this title, or any part of such amount, is not paid on the due date of the tax, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 1 per centum a month from the due date until it is paid.

(2) Where an extension of time for payment of the amount so determined as the tax by the executor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under subdivision (c) of section 305, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subdivision, interest at the rate of 1 per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

Sec. 305. * * * (c) If the time for the payment is thus extended there shall be collected, as a part of such amount, interest thereon at the rate of 6 per centum per annum from the expiration of six months after the due date of the tax to the expiration of the period of the extension.

Sec. 308. * * * (h) Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the due date of the tax to the date the deficiency is assessed, or, in the case of a waiver under subdivision (d) of this section, to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

(i) * * * the Commissioner * * * may grant an extension for the payment of such deficiency or any part thereof * * *. In such case there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 1 per centum a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

(j) The 50 per centum addition to the tax provided by section 3176 of the Revised Statutes, as amended, shall, when assessed after the enactment of this Act in connection with an estate tax, be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of subdivision (h) of this section shall not be applicable.

Sec. 309. * * * (b) Where a deficiency, or any interest assessed in connection therewith under subdivision (h) of section 308, or any addition to the tax provided for in section 3176 of the Revised Statutes, as amended, is not paid in full within 30 days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

(c) If a bond is filed, as provided in section 312, the provisions of subdivision (b) of this section shall not apply to the amount covered by the bond.

Sec. 312. * * * (f) When a jeopardy assessment has been made the executor, within 30 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in subdivision (j) of this section.

(g) If the bond is given before the executor has filed his petition with the Board under subdivision (a) of section 308, the bond shall contain a further condition that if a petition is not filed within the period provided in such subdivision, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subdivision.

(i) When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be refunded. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

(j) In the case of the amount collected under subdivision (i) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under subdivision (i) of this section, or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in subdivision (h) of section 308. If the amount included in the notice and demand from the collector under subdivision (i) of this section is not paid in full within 30 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

Sec. 811. Revenue Act of 1932.

(a) Section 305 of the Revenue Act of 1926 is amended by adding at the end thereof a new subdivision to read as follows:

"(e) Where there is included in the value of the gross estate the value of a reversionary or remainder interest in property, the payment of the part of the tax imposed by this title attributable to such interest may, at the election of the executor, be postponed until six months after the termination of the precedent interest or interests in the property, and the amount the payment of which is so postponed shall then be payable, together with interest thereon at the rate of 4 per centum per annum from eighteen months after the date of the decedent's death until such amount is paid. * * *"

Art. 84. **(a) Interest on tax disclosed on return.**—If any portion of the tax indicated by the return is not paid on or before the due date, and no extension of time for payment thereof has been granted, such unpaid portion bears interest at the rate of 1 per cent a month from the due date until payment is received by the collector.

If, however, an extension of time has been granted for paying any portion of the tax shown upon the return, the statute requires the imposition of interest upon the amount, the time for payment of which has been extended, at the rate of 6 per cent per annum from the expiration of six months after the due date of the tax (one year after the date of the decedent's death) to the expiration of the period of the extension. If the amount of tax, the time for payment of which has been extended, and the interest thereon from six months after the due date of the tax, are not paid in full prior to the expiration of the extension, or extensions, granted by the Commissioner, interest accrues upon the total unpaid amount (tax and interest), at the rate of 1 per cent a month from the date of the expiration of the extension, or extensions, until payment is received by the collector. For an example of computation of interest at 1 per cent a month, see article 85.

In any case in which an extension of time is granted for paying the tax, interest will be added to the amount, the time for payment of which has been extended, from six months after the due date until the expiration of the period of extension, or extensions.

(b) Interest on tax attributable to a reversionary or remainder interest.—If the time for the payment of the tax attributable to a reversionary or remainder interest is postponed in accordance with the provisions of section 811 of the Revenue Act of 1932, the amount the payment of which is so postponed will bear interest at the rate of 4 per cent per annum from 18 months after the date of the decedent's death until such amount is paid.

Art. 85. **Interest on deficiency tax.**—The statute provides that the deficiency shall bear interest at the rate of 6 per cent per annum from the due date for payment of the tax (one year after date of decedent's death) to the date the deficiency is assessed, except in the case of a waiver of the restrictions against the assessment and collection of the deficiency, and that such interest shall be assessed at the same time as the deficiency of which it becomes an integral part. The deficiency in respect to which the restrictions against the assessment and collection are waived under section 308 (d) bears interest at the rate of 6 per cent per annum from the due date of the tax to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier. The term "deficiency" includes any tax resulting from the correction of a mathematical error appearing upon the face of a return. (See second paragraph of article 77.)

Such portion of the deficiency assessed, except a deficiency with respect to which a jeopardy assessment is made and a petition to the Board is filed, as is not paid within 30 days from the date of notice and demand by the collector, bears interest at the rate of 1 per cent a month from the date of such notice and demand until payment is received by the collector unless, however, an extension for the payment thereof has been granted. If an extension of time for paying the deficiency, or any portion thereof, has been granted the statute requires the imposition of interest upon the amount, the time for payment of which has been extended, at the rate of 6 per cent per annum for the period of the extension, and if not paid on or before the expiration of the extension or extensions interest accrues upon the total unpaid amount (tax, interest, or additions thereto) at the rate of 1 per cent a month from the date of the expiration of the extension until payment is received by the collector.

In any case in which an extension of time is granted for paying the deficiency, interest will be added to the amount, the time for payment of which has been extended, for the period of the extension, or extensions.

Example: A deficiency in the tax amounting to $500 was determined and assessment thereof made on the 15th day of July, the due date of the tax being March 15 preceding. The amount of the assessment in this instance is $500, plus interest thereon at 6 per cent per annum from and including March 16 to and including July 15, amounting to $10.03, computed upon the basis of 365 days to the year (or 366 days in a leap year), or a total assessment of

$510.03, which thereupon becomes the amount of the deficiency. The date of the notice and demand by the collector for payment was August 1 following the assessment. Within 30 days thereafter $255.02 was paid and request was made for an extension of time for paying the balance of the deficiency ($255.01), and an extension from August 1 to and including February 1 was granted for the payment thereof. This amount bears interest at 6 per cent per annum for the period of the extension, amounting to $7.59. The remaining liability is, therefore, $262.60. The amount of liability in this instance was not paid until August 1 following the expiration of the extension. Inasmuch as the $255.01, the time for payment of which was extended, was not paid until after the expiration of the extension, interest accrued thereon at the rate of 1 per cent a month for six months, amounting to $15.30. (The term " month " means calendar month; i. e., a period terminating with the day of the succeeding month numerically corresponding to the day preceding the beginning of the period. If there is no such corresponding day of the succeeding month, the last day of such succeeding month is the last day of the period. If interest at the rate of 1 per cent a month is to be computed for a period of one or more months and a fraction of a month, it should be computed for the number of whole months, and then for the fraction of a month upon the basis of the number of days in the month which includes such fraction. Thus, for example, the elapsed period from February 14 to March 13, both dates included, is one month, and the period from February 14 to March 11, both dates included, is twenty-six twenty-eighths of a month, except that if the year be a leap year the period is twenty-seven twenty-ninths of a month.) The amount due on August 1 was, therefore, $277.90 ($255.01 + 7.59 + 15.30).

Any addition to the tax resulting from the imposition of an ad valorem penalty under the provisions of section 3176, Revised Statutes, is subject to the same provisions of law relating to the assessment, collection, and the accrual of interest, as the deficiency tax, except that such addition to the tax is not subject to any interest between the due date for payment of the tax (one year after date of decedent's death) and the date of the assessment thereof.

If a stay of the collection of a jeopardy assessment of a deficiency tax, or any addition to the tax resulting from the imposition of an ad valorem penalty, is obtained and a petition for a redetermination of the deficiency is filed with the Board of Tax Appeals, interest accrues on such unpaid portion of the deficiency or penalty, if any, determined by a decision of the Board which is made final, at the rate of 6 per cent per annum from the date of the notice and demand from the collector following the jeopardy assessment to the

date of the notice and demand by the collector subsequent to the final action taken on the petition filed with the Board. If the amount which the Board determines should have been assessed is not paid in full within 30 days after such notice and demand subsequent to the decision of the Board which has become final, interest accrues upon the unpaid amount at the rate of 1 per cent a month from the date of such notice and demand until it is paid. If the amount (exclusive of any ad valorem penalty) determined by the Board as the amount which should have been assessed is greater than the amount actually assessed the difference bears interest at the rate of 6 per cent per annum from the due date of the tax until assessment of such difference. If the collection of the jeopardy assessment is stayed, and no petition is filed with the Board for a redetermination of the deficiency, interest accrues upon the deficiency so assessed at the rate of 6 per cent per annum from the date of the jeopardy notice and demand to the date of the notice and demand made by the collector after the expiration of the 60 days from the mailing by the Commissioner of the notice of the deficiency, and if not paid within 30 days after such second notice and demand by the collector interest accrues at the rate of 1 per cent a month from the date of such second notice and demand until paid.

COLLECTION OF TAX

SEC. 314. (a) If the tax herein imposed is not paid on or before the due date thereof the collector shall, upon instruction from the Commissioner, proceed to collect the tax under the provisions of general law, or commence appropriate proceedings in any court of the United States having jurisdiction, in the name of the United States, to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. This subdivision in so far as it applies to the collection of a deficiency shall be subject to the provisions of section 308.

ART. 86. **Remedy not exclusive.**—The remedy by action, here provided, is not exclusive. For other available remedies for the collection of the tax, see article 105.

REIMBURSEMENT

SEC. 314. * * * (b) If the tax or any part thereof is paid by, or collected out of that part of the estate passing to or in the possession of, any person other than the executor in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the persons whose interest in the estate of the decedent would have been

reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this title that so far as is practicable and unless otherwise directed by the will of the decedent the tax shall be paid out of the estate before its distribution. If any part of the gross estate consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds, in excess of $40,000, of such policies bear to the net estate. If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio.

Art. 87. **Right to reimbursement not enforceable by Commissioner.**—If any portion of the tax is paid by or collected out of that part of the estate passing to, or in the possession of, any person other than the duly qualified executor or administrator, such person may be entitled to reimbursement, either out of the undistributed estate or by contribution from other beneficiaries whose shares or interests in the estate would have been reduced had the tax been paid before distribution of the estate, or whose shares or interests are subject either to an equal or prior liability for the payment of taxes, debts, or other charges against the estate. The executor is entitled to require beneficiaries under insurance policies to bear their proportion of the tax. These provisions, however, are not designed to curtail the right of the Commissioner to collect the tax from any person, or out of any property, liable therefor. The Commissioner can not be required to apportion the tax among the persons liable, nor to enforce any right to reimbursement or contribution.

LIEN

Sec. 315 (as amended by section 613 (b) of the Revenue Act of 1928, and as further amended by section 803 (c) and section 809 of the Revenue Act of 1932).

(a) Unless the tax is sooner paid in full, it shall be a lien for ten years upon the gross estate of the decedent, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien. If the Commissioner is satisfied that the tax liability of an estate has been fully discharged or provided for, he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate, releasing any or all property of such estate from the lien herein imposed.

(b) If (1) except in the case of a bona fide sale for an adequate and full consideration in money or money's worth, the decedent makes a transfer, by trust or otherwise, of any property in contemplation of or intended to take effect in possession or enjoyment at or after his death, or makes a transfer, by trust or otherwise, under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (A) the possession or enjoyment of, or the right to the income from, the property, or (B) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom, or (2) if insurance passes under a contract executed by the decedent in favor of a specific beneficiary, and if in either case the tax in respect thereto is not paid when due, then the transferee, trustee, or beneficiary shall be personally liable for such tax, and such property, to the extent of the decedent's interest therein at the time of such transfer, or to the extent of such beneficiary's interest under such contract of insurance, shall be subject to a like lien equal to the amount of such tax. Any part of such property sold by such transferee or trustee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien and a like lien shall then attach to all the property of such transferee or trustee, except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth.

Sec. 313. * * * (b) If the executor makes written application to the Commissioner for determination of the amount of the tax and discharge from personal liability therefor, the Commissioner (as soon as possible, and in any event within one year after the making of such application, or, if the application is made before the return is filed, then within one year after the return is filed, but not after the expiration of the period prescribed for the assessment of the tax in section 310) shall notify the executor of the amount of the tax. The executor, upon payment of the amount of which he is notified, shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

(c) The provisions of subdivision (b) shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless the title to such part of the gross estate has passed to a bona fide purchaser for value, in which case such part shall not be subject to a lien or to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser by the heirs, legatees, devisees, or distributees.

Art. 88. **Property subject to lien.**—The lien imposed by section 315 of the Revenue Act of 1926 attaches at the date of the decedent's death to every part of the gross estate, whether or not the property comes into the possession of the duly qualified executor or administrator. It attaches to the extent of the tax shown to be due by the return and of any deficiency tax found to be due upon review and audit.

The lien upon the entire property constituting the gross estate continues for a period of 10 years after the decedent's death, except—

(1). If the tax is paid in full before the expiration of such period.

(2) Such portion of the gross estate as is used for the payment of charges against the estate and expenses of its administration allowed by any court having jurisdiction thereof.

(3) Such portion of the gross estate as has passed to a bona fide purchaser for value after payment of the full amount of tax determined by the Commissioner pursuant to a request of the executor for discharge from personal liability, as authorized by section 313 (b) and (c) (see article 67), but there is substituted a like lien upon the consideration received from such purchaser by the heirs, legatees, devisees, or distributees.

(4) Such property as was received from the decedent as a transfer by trust or otherwise in contemplation of or intended to take effect in possession or enjoyment at or after his death, or under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (A) the possession or enjoyment of, or the right to the income from, the property, or (B) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom (except in case the transfer was a bona fide sale for an adequate and full consideration in money or money's worth), and was sold by the transferee to a bona fide purchaser for such a consideration. In such case the lien attaches to all the property of the transferee except such thereof as may be sold to a bona fide purchaser for such a consideration.

(5) If a certificate releasing such lien is issued. (See article 89.)

ART. 89. Release of lien.—The statute provides that if the Commissioner is satisfied that the tax liability of an estate has been fully discharged or provided for, he may issue his certificate releasing any or all property of the estate from the lien. The issuance of certificates releasing such lien is a matter resting within the discretion of the Commissioner, and certificates will be issued only in case there is actual need therefor. The primary purpose of such release is not to evidence payment or satisfaction of the tax, but to permit the transfer of property free from the lien in case it is necessary to clear title. Receipts for payment of the tax are issued by the collector.

If the tax liability has been fully discharged a certificate may be issued releasing the lien as to any or all property of the estate. If the tax liability has not been fully discharged, no general release of all property of the estate will be granted but certificates releasing the lien upon particular items of property may be issued by the Commissioner who may require as a prerequisite, in such an amount as he may designate, a partial payment of tax or the furnishing of an indemnity bond with such surety or sureties as he deems necessary. In lieu of such surety or sureties the indemnity bond may be secured by deposit of Liberty bonds or other bonds or notes of the United States in a sum equal at their par value to the amount of such bond. The tax will be considered fully discharged only when investigation has been completed and payment of the tax, including any deficiency finally determined, has been made.

The application for a release should be filed with the Commissioner and should explain the circumstances that require the release, fully describe the particular items for which the release is desired, and show the applicant's relationship to the estate, such as executor, heir, devisee, legatee, beneficiary, transferee, or purchaser. If the return, Form 706, has not been filed, an affidavit may be required showing the value of the property to be released, the basis for such valuation, the approximate value of the gross estate, the approximate value of the total real property included in the gross estate, and in case the property is to be sold or transferred, the name and address of the purchaser or transferee and the consideration to be received.

PENALTIES

SEC. 320. (a) Whoever knowingly makes any false statement in any notice or return required to be filed under this title shall be liable to a penalty of not exceeding $5,000, or imprisonment not exceeding one year, or both.

(b) Whoever fails to comply with any duty imposed upon him by section 304, or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request to the Commissioner or any collector or law officer of the United States or his duly authorized deputy or agent, who desires to examine the same in the performance of his duties under this title, shall be liable to a penalty of not exceeding $500, to be recovered, with costs of suit, in a civil action in the name of the United States.

SEC. 1114. (a) Any person required under this Act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this Act, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this Act to collect, account for and pay over any tax imposed by this Act, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this Act or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, the internal-revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

* * * * * * *

(e) Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy.

(f) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

Sec. 1103. Section 3176 of the Revised Statutes, as amended, is amended to read as follows: "Sec. 3176 * * * In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

"The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax."

Sec. 616. Revenue Act of 1928.

Any person who, in connection with any compromise under section 3229 of the Revised Statutes, as amended, or offer of such compromise, or in connection with any closing agreement under section 606 of this Act, or offer to enter into any such agreement, willfully (1) conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or (2) receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

Sec. 403. Revenue Act of 1932.

Except as provided in section 402, the tax imposed by section 401 of this Act shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by section 301 (a) of the Revenue Act of 1926, except that in the case of a resident decedent a return shall be required if the value of the gross estate at the time of the decedent's death exceeds $50,000.

Art. 90. **Nature of penalties.**—Two kinds of penalties are provided for delinquency with respect to the duties imposed by the statute:

(1) A specific penalty, to be recovered by suit, unless previously paid or adjusted by the acceptance of an offer in compromise; and

(2) A penalty of a certain percentage of the tax, to be added to and collected in the same manner as the tax.

In any case in which more than one penalty is provided the Government may assert any one or more thereof.

Art. 91. **Penalties for false or fraudulent notice or return.**—In the case any statement in the notice or return is knowingly false, the person making it is subject to a penalty not exceeding $5,000, or imprisonment for not exceeding one year, or both, and for a false or fraudulent return, 50 per cent will be added to the amount of the tax. Any person required to file any notice or make a return who willfully fails to do so at the time required shall be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

Any person who willfully aids or assists in the preparation or presentation of a false or fraudulent notice or return, or procures, counsels, or advises the preparation or presentation of such a notice or return, whether such falsity or fraud is with or without the knowledge or consent of the person required to make the notice or return, will be guilty of a felony and, upon conviction thereof, fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

Art. 92. **Penalty for failure to file notice or return.**—For failure to file the notice or return within the time prescribed, the person in default is subject to a penalty not exceeding $500; and, for failure to file the return within the time prescribed, 25 per cent will be added to the amount of the tax, except that if a return is filed after such time and it is shown that the failure so to file was due to a reasonable cause and not to willful neglect no such addition will be made to the tax.

The ad valorem penalty of 25 per cent of the tax will not be asserted if an extension of time for filing the return was granted by the collector pursuant to the provisions of article 68, and the return is actually filed within the period of extension granted.

ART. 93. **Penalty for failure to pay tax, exhibit property, keep or exhibit records, etc., and for concealment of assets.**—Any person in possession or control of any record, file, or paper, containing or supposed to contain information relating to the estate, or having in his possession or control property comprised in the gross estate of the decedent, who fails to exhibit the same upon the request of the Commissioner or any collector or law officer of the United States, or his duly authorized deputy or agent, in the performance of his duties, or having knowledge or information of any fact or facts of a material bearing upon the liability, or the extent of liability, of the estate to the tax, who fails to make disclosure thereof upon request of the Commissioner or any revenue agent or inspector designated by him for that purpose, is liable to a penalty not to exceed $500, to be recovered by civil action. Such a request must be granted whether or not he believes that a compliance therewith is material.

Any person required to pay the tax, keep any records, or supply any information, for the purpose of the computation, assessment, or collection of the tax, who willfully fails to pay such tax, keep such records, or supply such information, as required by the law or regulations, shall, in addition to other penalties, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

Any person who willfully attempts in any manner to evade or defeat the tax or the payment thereof, shall, in addition to other penalties, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

Any person who in connection with any compromise entered into or offer made under the provisions of section 3229 of the Revised Statutes as amended, or, who in connection with any closing agreement under section 606 of the Revenue Act of 1928, or the offer to enter into any such agreement, willfully conceals from any officer or employee of the United States any property belonging to the estate, or any person liable in respect of the tax, or receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement, relating to the estate or its value or the financial condition of any person liable in respect of the tax, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both.

ART. 94. **Penalty for assisting, procuring, or advising the preparation or presentation of false or fraudulent documents.**—Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent affidavit, claim, or document, shall, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such affidavit, claim, or document, be guilty of a felony, and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

ABATEMENT AND STAY OF COLLECTION OF JEOPARDY ASSESSMENT

SEC. 312. * * * (f) When a jeopardy assessment has been made the executor, within 30 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in subdivision (j) of this section.

(g) If the bond is given before the executor has filed his petition with the Board under subdivision (a) of section 308, the bond shall contain a further condition that if a petition is not filed within the period provided in such subdivision, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subdivision.

(h) Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The executor shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the executor, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the executor, be proportionately reduced.

(i) When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be refunded. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector. * * *

(k) No claim in abatement shall be filed in respect of any assessment made after the enactment of this Act in respect of any estate * * * tax.

Art. 95. **Claim for abatement.**—No claim for abatement may be filed in respect of any assessment made after the effective date of the Revenue Act of 1926. The amount of any assessment directed to be abated by the statute as the result of a decision of the Board of Tax Appeals which has become final and all overassessments determined as a result of audit or examination of returns will be abated by the Commissioner without action on the part of the executor.

Art. 96. **Collection of jeopardy assessment stayed by filing bond.**—If a jeopardy assessment has been made, the executor, within 30 days after notice and demand from the collector for payment of the amount of the jeopardy assessment may obtain a stay of collection of the whole, or any part, of the amount of such assessment by filing with the collector a bond in such amount not exceeding double the amount as to which the stay is desired, and with such sureties as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated as a result of a decision of the Board which has become final, together with the interest thereon, as provided in the statute. (See article 85.) In lieu of such sureties there may be deposited Liberty bonds or other bonds and notes of the United States in a sum equal at their par value to the amount of such bond. The petition with the Board of Tax Appeals for redetermination of the deficiency in respect to which the jeopardy assessment was made must be filed within 90 days (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day) after the mailing by the Commissioner of the notice of the final determination of the deficiency. (See article 76.) If the bond is given before the petition is filed with the Board, the bond shall contain a further condition that if a petition is not filed within the 90 days, then the amount, the collection of which is stayed by the bond, shall be paid on notice and demand at any time after the expiration of such 90-day period, together with interest thereon at the rate of 6 per cent per annum from the date of the jeopardy notice and demand made by the collector to the date of notice and demand made after the expiration of the 90-day period.

Art. 97. **Accrual of interest as affected by the stay of the collection of a jeopardy assessment.**—For rules relating to the accrual of interest where the collection of a jeopardy assessment is stayed by the filing of a bond, see article 85.

Art. 98. **Limitation of time to file bond to stay collection of jeopardy assessment.**—If it is desired to stay the collection of the whole, or any part, of the amount in respect to which a jeopardy assessment has been made, the bond referred to in article 96 must be filed with the collector within 30 days after notice and demand by the collector for the payment of the amount of the jeopardy assessment.

REFUNDS

Sec. 319. (a) If the Commissioner has mailed to the executor a notice of deficiency under subdivision (a) of section 308 and if the executor after the enactment of this Act files a petition with the Board of Tax Appeals within the time prescribed in such subdivision, no refund in respect of the tax shall be allowed or made and no suit for the recovery of any part of such tax shall be instituted in any court, except—

(1) As provided in subdivision (c) of this section or in subdivision (i) of section 312 or in subdivision (b), (e), or (g) of section 318 or in subdivision (d) of section 1001; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(3) As to any amount collected after the statutory period of limitations upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for refund or in any such suit for refund the decision of the Board which has become final, as to whether such period had expired before the notice of deficiency was mailed, shall be conclusive.

(b) All claims for the refunding of the tax imposed by this title alleged to have been erroneously or illegally assessed or collected must be presented to the Commissioner within three years next after the payment of such tax.

(c) If the Board finds that there is no deficiency and further finds that the executor has made an overpayment of tax, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the executor as provided in section 3220 of the Revised Statutes, as amended. Such refund shall be made either (1) if claim therefor was filed within the period of limitation provided for by law, or (2) if the petition was filed with the Board within four years after the tax was paid, or, in the case of a tax imposed by this title, within three years after the tax was paid.

Sec. 810. Revenue Act of 1932.

(a) Section 319(b) of the Revenue Act of 1926 is amended to read as follows:

"(b) All claims for the refunding of the tax imposed by this title alleged to have been erroneously or illegally assessed or collected must be presented to the Commissioner within three years next after the payment of such tax. The amount of the refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim, or if no claim was filed, then during the three years immediately preceding the allowance of the refund."

(b) The last sentence of section 319(c) of the Revenue Act of 1926 is amended to read as follows:

"No such refund shall be made of any portion of the tax paid more than four years (or. in the case of a tax imposed by this title, more than three years) before the filing of the claim or the filing of the petition, whichever is earlier."

(c) Title III of the Revenue Act of 1924 is amended by inserting after section 318 a new section to read as follows:

"Sec. 318½. The amount of any refund of the tax imposed by Part I of this title shall not exceed the portion of the tax paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund."

(d) Section 319(b) of the Revenue Act of 1926, as amended by this Act, and section 318½ of the Revenue Act of 1924, as added by this Act, shall not bar from allowance a claim for refund filed prior to the enactment of this Act which but for such enactment would have been allowable.

Sec. 504. Revenue Act of 1934. * * *

(d) The last sentence of section 319(c) of the Revenue Act of 1926, as amended, is amended to read as follows: "No such refund shall be made of any portion of the tax unless the Board determines as part of its decision that it was paid within four years (or in the case of a tax imposed by this title, within three years) before the filing of the claim or the filing of the petition, whichever is earlier."

(e) The amendments made by subsections (a), (b), (c), and (d) of this section shall have no effect in the case of any proceeding before the Board on a petition if any hearing by the Board thereon has been held prior to 30 days after the date of the enactment of this Act.

Sec. 325. Any tax that has been paid under the provisions of Title III of the Revenue Act of 1924 prior to the enactment of this Act in excess of the tax imposed by such title as amended by this Act shall be refunded without interest.

Sec. 1106. * * *

(b) If after a determination and assessment in any case the taxpayer has paid in whole any tax or penalty, or accepted any abatement, credit, or refund based on such determination and assessment, and an agreement is made in writing between the taxpayer and the Commissioner, with the approval of the Secretary, that such determination and assessment shall be final and conclusive, then (except upon a showing of fraud or malfeasance or misrepresentation of fact materially affecting the determination or assessment thus made) (1) the case shall not be reopened or the determination and assessment modified by any officer, employee, or agent of the United States, and (2) no suit, action, or proceeding to annul, modify, or set aside such determination or assessment shall be entertained by any court of the United States.

Sec. 606. Revenue Act of 1928.

(a) **Authorization.**—The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal-revenue tax for any taxable period ending prior to the date of the agreement.

(b) **Finality of agreements.**—If such agreement is approved by the Secretary, or the Undersecretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

(c) Section 1106(b) of the Revenue Act of 1926 is repealed, effective on the expiration of 30 days after the enactment of this Act, but such repeal shall not affect any agreement made before such repeal takes effect.

Revised Statutes, section 3220 (as amended by section 3, Act of May 29, 1928, Public, No. 611—70th Congress). The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; also to repay to any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal-revenue taxes collected by him, with the cost and expense of suit; also all damages and cost recovered against any assessor, assistant assessor, collector, deputy collector, agent, or inspector, in any suit brought against him by reason of anything done in the due performance of his official duty, and shall make report to Congress, by internal-revenue districts and alphabetically arranged, of all refunds in excess of $500, at the beginning of each regular session of Congress of all transactions under this section.

Revised Statutes, section 3228 (as amended by section 619 (c), Revenue Act of 1928 [U. S. C., Sup. VII, title 26, section 1433]).

(a) All claims for the refunding or crediting of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, be presented to the Commissioner of Internal Revenue within four years next after the payment of such tax, penalty, or sum.

(b) Except as provided in section 284 of the Revenue Act of 1926, claims for credit or refund (other than claims in respect of taxes imposed by the Revenue Act of 1916, the Revenue Act of 1917, or the Revenue Act of 1918) which at the time of the enactment of the Revenue Act of 1921 were barred from allowance by the period of limitation then in existence, shall not be allowed.

Sec. 607. Revenue Act of 1928.

Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid (whether before or after the enactment of this Act) after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

Sec. 608. Revenue Act of 1928.

A refund of any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) made after the enactment of this Act, shall be considered erroneous—

(a) if made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) in the case of a claim filed within the proper time and disallowed by the Commissioner after the enactment of this Act, if the refund was made after the expiration of the period of limitation for filing suit, unless—

(1) within such period suit was begun by the taxpayer, or

(2) within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the United States Board of Tax Appeals or the courts.

Sec. 503. Revenue Act of 1934.

Section 608(b)(2) of the Revenue Act of 1928 is amended by adding at the end thereof a new sentence to read as follows: "If such agreement has been entered into, the running of such statute of limitations shall be suspended in accordance with the terms of the agreement."

Sec. 610. Revenue Act of 1928.

(a) Any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) refund of which is erroneously made, within the meaning of section 608, after the enactment of this Act, may be recovered by suit brought in the name of the United States, but only if such suit is begun within two years after the making of such refund.

(b) Any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) which has been erroneously refunded (if such refund would not be considered as erroneous under section 608) may be recovered by suit brought in the name of the United States, but only if such suit is begun before the expiration of two years after the making of such refund or before May 1, 1928, whichever date is later.

Sec. 502. Revenue Act of 1934.

(a) Section 610 of the Revenue Act of 1928 is amended by adding at the end thereof a new subsection to read as follows:

"(c) Despite the provisions of subsections (a) and (b) such suit may be brought at any time within five years from the making of the refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact."

(b) The amendment made by subsection (a) of this section shall not apply to any suit which was barred on the date of the enactment of this Act.

Sec. 611. Revenue Act of 1928.

If any internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) was, within the period of limitation properly applicable thereto, assessed prior to June 2, 1924, and if a claim in abatement was filed, with or without bond, and if the collection of any part thereof was stayed, then the payment of such part (made before or within one year after the enactment of this Act) shall not be considered as an overpayment under the provisions of section 607, relating to payments made after the expiration of the period of limitation on assessment and collection.

Sec. 612. Revenue Act of 1928.

Section 1106 (a) of the Revenue Act of 1926 is repealed as of February 26, 1926.

Sec. 1103. Revenue Act of 1932.

(a) Section 3226 of the Revised Statutes, as amended, is amended to read as follows:

"Sec. 3226. No suit or proceeding shall be maintained in any court for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of mailing by registered mail by the Commissioner to the taxpayer of a notice of the disallowance of the part of the claim to which such suit or proceeding relates."

(b) Suits or proceedings instituted before the date of the enactment of this Act shall not be affected by the amendment made by subsection (a) of this section to section 3226 of the Revised Statutes. In the case of suits or proceedings instituted on or after the date of the enactment of this Act where the part of the claim to which such suit or proceeding relates was disallowed before the date of the enactment of this Act, the statute of limitations shall be the same as provided by such section 3226 before its amendment by subsection (a) of this section.

SEC. 1104. Revenue Act of 1932.

Where the Commissioner has (before or after the enactment of this Act) signed a schedule of overassessments in respect of any internal revenue tax imposed by this Act or any prior revenue Act, the date on which he first signed such schedule (if after May 28, 1928) shall be considered as the date of allowance of refund or credit in respect of such tax.

ART. 99. **Claim for refund.**—A claim for refund of estate tax, or for refund of interest or penalties, erroneously or illegally collected should be made on the form prescribed by the Treasury Department (Form 843), and should be filed with the collector of internal revenue, although a claim will not be considered defective solely by reason of the fact that it is not made on the form or that it is filed with the Commissioner of Internal Revenue. The claim must set forth in detail and under oath each ground upon which a refund is claimed, and facts sufficient to apprise the Commissioner of the exact basis thereof. Any claim which does not comply with the requirements of the preceding sentence will not be considered for any purpose as a claim for refund.

Claims for the refund of estate tax imposed by the Revenue Act of 1926 and the additional estate tax imposed by the Revenue Act of 1932, or the Revenue Act of 1932 as amended by the Revenue Act of 1934, must be filed within three years next after the payment of the amount sought to be refunded. If, however, the tax was imposed by the estate tax title of any of the Acts prior to the Revenue Act of 1926 the period within which the claim must be filed is four years after payment of the tax. Any tax imposed by Title III of the Revenue Act of 1924 which was paid prior to the enactment of the Revenue Act of 1926 in excess of the amount of tax imposed by the Revenue Act of 1924 as amended by the Revenue of 1926 is not deemed to have been erroneously or illegally collected and hence a claim for the refund of such excess is not subject to the 4-year limitation set out in the next preceding sentence. Furthermore, the 4-year limitation of time within which claims for refund must be filed does not apply in a case in which a refund is sought under the provisions of the last paragraphs of sections 401 and 403 of the Revenue Act of 1921.

The amount of the refund shall not exceed the portion of the tax paid during the three or four year period, as the case may be, immediately preceding the filing of the claim, or the filing of the petition with the Board of Tax Appeals. Upon receipt of any claim for refund, other than a claim for refund of an overpayment determined in accordance with a decision of the Board of Tax Appeals which has become final, the return of the estate will be reaudited and only the excess payment determined by the Commissioner as a result of consideration of the claim and reaudit will be refunded. If the reaudit reveals that the tax has been underpaid, the amount of such underpayment will be collected unless the collection thereof is barred.

If a petition was filed with the Board of Tax Appeals for the redetermination of a deficiency, as provided by section 308, and the Board finds that the executor has made an overpayment of the tax, and further determines as part of its decision that any portion of the overpayment was made within three years (or, within four years, in a case of a tax imposed by an Act prior to the Revenue Act of 1926) before the filing of the claim or the filing of the petition, whichever is earlier, the amount of such portion of the overpayment will be refunded. The portion of the overpayment made within such period will be refunded, even though the Board has not determined as part of its decision that the overpayment was so made, if a hearing upon the petition was held by the Board prior to the expiration of 30 days after the date of the enactment of the Revenue Act of 1934.

Save in the case of a claim for refund of an overpayment computed in accordance with a decision of the Board of Tax Appeals which has become final, the burden of proof rests upon the claimant and all facts relied upon in support of the claim must be clearly set forth under oath. Every affidavit, argument, brief, or statement of facts, prepared or filed by an attorney or agent as argument or evidence in the matter of a protest, must have therein a statement signed by such attorney or agent showing whether or not he prepared such document and whether or not the attorney or agent knows of his own knowledge that the facts contained therein are true. In the case there is a hearing, should the executor not appear in person, his representative who appears must present a properly executed power of attorney and be enrolled to practice before the Treasury Department. (See article 74.) With all claims there should be submitted:

(1) If the claim is made by an executor or administrator, a certificate of the court must be furnished showing that the appointment remains in full force and effect.

(2) If the executor or administrator has been discharged and no administrator de bonis non has been appointed and qualified, there should be submitted, in lieu of the certificate above mentioned, (a) a certified copy of the court order granting the discharge, and (b) a certified copy of the order of distribution, or, if such order does not fully disclose the identity of the person or persons entitled to receive any amount that may be refunded and the percentage or proportion thereof to which each, if more than one, is entitled, there should be submitted a certified copy of the decedent's will, if any, and such

further proof as may be requisite to establish both the identity of such person or persons and the percentage or proportion of the amount sought to be refunded to which each, in the case there are more than one, is entitled.

If upon audit of the return filed by the executor the Commissioner determines that an overassessment has been made on account of the tax, a certificate of overassessment will be prepared and issued, even though claim for refund of such excess payment has not been filed, except as provided in article 76. The certificate of overassessment, issued if no claim for refund has been filed, will be addressed to the executor and the documentary evidence, as set out above, identifying the person or persons entitled to receive the refund will be required.

A refund is erroneous if made after the enactment of the Revenue Act of 1928, when made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed. In the case a claim was filed within the proper time and such claim was disallowed by the Commissioner after the enactment of the Revenue Act of 1928, and the period of limitation for filing suit by the executor had expired prior to the making of the refund, a refund based upon such claim is erroneous unless suit was begun by the executor within the period of limitation for filing suit, or unless within such period the executor and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision of one or more named cases then pending before the Board of Tax Appeals or the courts. Erroneous refunds, as above described, may be recovered by suit brought in the name of the United States within two years after the making of such refunds. An erroneous refund, though not considered as erroneous under section 608 of the Revenue Act of 1928, may be recovered in the same manner if the suit is begun within two years after the making of such refund or before May 1, 1928, whichever date is later. Erroneous refunds, whether erroneous under the provisions of section 608 of the Revenue Act of 1928 or otherwise, may be recovered by suit brought within five years of the making of the refund if it appears that any part of the refund was induced by fraud or misrepresentation of a material fact and suit for recovery was not barred on the date of the enactment of the Revenue Act of 1934.

A claim for the payment of a judgment rendered against a collector of internal revenue representing Federal estate tax, penalties, or other sums collected in connection therewith should be made on Form 843 and filed with the Commissioner of Internal Revenue, Washington, D. C. The claimant should state the names of all parties to the action, the date of its commencement, the date of the judgment, the court in which it was recovered, its amount, and the fact that the action related to Federal estate tax or interest or penalties in connection therewith. To the claim there should be annexed two certified copies of the final judgment, a certificate of probable cause (see section 989 of the Revised Statutes [U. S. C., title 28, sec. 842]) and, if refund is claimed, an itemized bill of the costs paid, receipted by the clerk or other proper officer of the court.

A claim for the payment of a judgment rendered against the United States representing Federal estate tax, penalties, or other sums collected in connection therewith should be made on Form 843 in the manner prescribed in the preceding paragraph, except that—

(a) a certificate of probable cause is not required,

(b) the claims shall be executed in duplicate, and

(c) in the case of a judgment rendered by the Court of Claims there may be submitted, in place of a certified copy of the final judgment, a certificate of the judgment issued by the clerk of the court and two copies of the court's opinion, if any was rendered.

INTEREST ON REFUNDS

Sec. 614. Revenue Act of 1928. [Amended by section 319, Public, No. 212—72d Congress, and section 2 of Title II, Public, No. 325—72d Congress. Section 614, Revenue Act of 1928, restored as originally enacted, by section 14, Public, No. 428—72d Congress.]

(a) Interest shall be allowed and paid upon any overpayment in respect of any internal-revenue tax, at the rate of 6 per centum per annum, as follows:

* * * * * * *

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days, such date to be determined by the Commissioner.

* * * * * * *

(c) Section 1116 of the Revenue Act of 1926 is repealed.

(d) Subsections (a), (b), and (c) shall take effect on the expiration of 30 days after the enactment of this Act, and shall be applicable to any credit taken or refund paid after the expiration of such period, even though allowed prior thereto.

Sec. 802. Revenue Act of 1932.

(a) Section 301 (b) of the Revenue Act of 1926 is amended to read as follows:

"(c) * * *

"(2) * * *

Refund based on the credit may (despite the provisions of section 319) be made if claim therefor is filed within the period above provided. Any such refund shall be made without interest, except that where the overpayment was made prior to the enactment of the Revenue Act of 1932, then interest shall be allowed and paid on the amount refunded at the rate of 6 per centum per annum from the date of the overpayment to the date of such enactment."

Art. 100. **Payment of claims and interest.**—Under the law warrants in payment of claims allowed can only be drawn payable to the person or persons entitled to the proceeds, and consequently can not be drawn payable to attorneys or agents. If the claimants are indebted to the United States for taxes, such taxes must be paid before the warrants are delivered. (U. S. C., Sup. VII, title 31, sec. 227.)

Upon the allowance of the claim for refund of any tax or penalty paid, unless the refund results from the allowance of a credit for payment of estate, inheritance, legacy, or succession taxes, the statute provides for the payment of interest upon the total amount of such refund at the rate of 6 per cent per annum from the date such tax or penalty was paid to a date preceding the date of the refund check by not more than 30 days, such date to be determined by the Commissioner. If a refund is based upon the credit for payment of estate, inheritance, legacy, or succession taxes allowed by subdivision (b) of section 301, as amended by section 802 of the Revenue Act of 1932 (see article 9), the refund will be made without interest unless the overpayment was made prior to the enactment of the Revenue Act of 1932, in which case interest will be paid upon the amount of such overpayment at the rate of 6 per cent per annum from the date of payment to the date of the enactment of such Act.

POWER TO COMPROMISE OR REMIT PENALTIES

Revised Statutes, section 3229 (Comp. Sts., 1916, sec. 5952) [U. S. C., Sup. VII, title 26, sec. 1661].

The Commissioner of Internal Revenue, with the advice and consent of the Secretary of the Treasury, may compromise any civil or criminal case arising under the internal revenue laws instead of commencing suit thereon; and, with the advice and consent of the said Secretary and the recommendation of the Attorney General, he may compromise any such case after a suit thereon has been commenced. Whenever a compromise is made in any case there shall be placed on file in the office of the Commissioner the opinion of the Solicitor of Internal Revenue, or of the officer acting as such, with his reasons therefor, with a statement of the amount of tax assessed, the amount of additional tax or penalty imposed by law in consequence of the neglect or delinquency of the person against whom the tax is assessed, and the amount actually paid in accordance with the terms of the compromise.

Art. 101. **Compromise of taxes and penalties.**—Offers in compromise should be filed with the appropriate collector of internal revenue. No offer in compromise of tax, interest, and ad valorem penalty collectible as part of the tax will be accepted unless there is a substantial doubt as to either liability or collectibility. (The functions prescribed for the " Solicitor of Internal Revenue " by section 3229 of the Revised Statutes are now exercised by the "Assistant General Counsel for the Bureau of Internal Revenue." See section 1201 (a) of the Revenue Act of 1926 and section 512 of the Revenue Act of 1934.)

PERSONAL LIABILITY OF EXECUTOR

Sec. 518. Revenue Act of 1934..

(a) Section 3467 of the Revised Statutes (U. S. C., title 31, ch. 6, sec. 192) is amended to read as follows:

" Sec. 3467. Every executor, administrator, or assignee, or other person, who pays, in whole or in part, any debt due by the person or estate for whom or for which he acts before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate to the extent of such payments for the debts so due to the United States, or for so much thereof as may remain due and unpaid."

(b) The amendment made by subsection (a) shall be applicable in the case of payments made after June 6, 1932.

Art. 102. **Extent of liability.**—If the executor, before paying all the estate tax, pays, in whole or in part, any debt due by the decedent or the decedent's estate, or distributes any portion of the estate, he is personally liable, to the extent of such payment or distribution, for so much of the estate tax as remains due and unpaid.

The term executor includes every person in actual or constructive possession of any property of the decedent if there is no appointed, qualified, and acting personal representative within the United States. For provisions of the statute and regulations prescribing conditions authorizing release of the executor from his personal liability for payment of the tax, see section 313 (b) and article 67.

EXAMINATION OF RECORDS AND TAKING OF TESTIMONY

Sec. 1104 (as amended by section 618, Revenue Act of 1928). The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

Sec. 1122. (a) If any person is summoned under this Act to appear, to testify, or to produce books, papers, or other data, the district court of the United States for the district in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

(b) The district courts of the United States at the instance of the United States are hereby invested with such jurisdiction to make and issue, both in actions at law and suits in equity, writs and orders of injunction, and of ne exeat republica, orders appointing receivers, and such other orders and process, and to render such judgments and decrees, granting in proper cases both legal and equitable relief together, as may be necessary or appropriate for the enforcement of the provisions of this Act. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such provisions.

SEC. 507. Revenue Act of 1934.

The Commissioner, for the purpose of determining the liability at law or in equity of a transferee of the property of any person with respect to any Federal taxes imposed upon such person, is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon such liability, and may require the attendance of the transferor or transferee, or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter, with power to administer oaths to such person or persons.

ART. 103. **Securing evidence—Taking testimony.**—In order to ascertain the correctness of a return, or to make a return if none has been made, the Commissioner has power to require the attendance, and to take the testimony, of the person rendering the return, or any officer or employee of such person, or any other person having knowledge in the premises. Such persons may be required to produce any relevant book, paper, or other record. The Commissioner also is authorized, for the purpose of determining the liability at law or in equity of a transferee of the property of any person with respect to any Federal taxes imposed upon such person, to examine any books, papers, records, or memoranda bearing upon such liability and may require the attendance of the transferor or transferee, or any officer or employee of such person and take his testimony with reference to the matter. The Commissioner has the authority to administer oaths to the persons required to testify. The power and authority herein described may be exercised by any officer or employee of the Bureau of Internal Revenue, including the field force designated by the Commissioner for that purpose. (For penalties, see article 93.)

ART. 104. **Power to compel compliance.**—If any person is summoned to appear and testify, or to produce books, papers, or other data, the District Court of the United States for the district in which such person resides has power to compel the giving of the testimony, the production of the books, papers, or data, and to issue any appropriate process, writ, or order.

REMEDIES FOR COLLECTION

SEC. 1100. All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this Act.

SEC. 311. * * * (b) Where the assessment of any tax imposed by this title or of any estate or gift tax imposed by prior Act of Congress has been made (whether before or after the enactment of this Act) within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this Act), but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the executor.

SEC. 316. (a) The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) The liability, at law or in equity, of a transferee of property of a decedent or donor, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed by this title or by any prior estate tax Act or by any gift tax Act.

(2) The liability of a fiduciary under section 3467 of the Revised Statutes in respect of the payment of any such tax from the estate of the decedent or donor.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) Within one year after the expiration of the period of limitation for assessment against the executor or donor; or

(2) If the period of limitation for assessment against the executor expired before the enactment of this Act but assessment against the executor was made within such period,—then within six years after the making of such assessment against the executor, but in no case later than one year after the enactment of this Act.

(3) If a court proceeding against the executor or donor for the collection of the tax has been begun within either of the above periods,—then within one year after return of execution in such proceeding.

(c) The running of the period of limitation upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under subdivision (a) of section 308 to the transferee or fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary, and for 60 days thereafter.

(d) This section shall not apply to any suit or other proceeding for the enforcement of the liability of a transferee or fiduciary pending at the time of the enactment of this Act.

(e) As used in this section the term "transferee" includes heir, legatee, devisee, and distributee.

Sec. 403. Revenue Act of 1928.

(a) Section 316 (c) of the Revenue Act of 1926 is amended to read as follows:

"(c) The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under subdivision (a) of section 308 to the transferee or fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter."

(b) Subsection (a) of this section shall apply in all cases where the period of limitation has not expired prior to the enactment of this Act.

Sec. 604. Revenue Act of 1928.

No suit shall be maintained in any court for the purpose of restraining the assessment or collection of (1) the amount of the liability, at law or in equity, of a transferee of property of a taxpayer in respect of any income, war-profits, excess-profits, or estate-tax, or (2) the amount of the liability of a fiduciary under section 3467 of the Revised Statutes in respect of any such tax.

Sec. 808. Revenue Act of 1932.

(a) Section 305(b) of the Revenue Act of 1926 is amended to read as follows:

"(b) Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part * * *. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of extension, and the running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension. * * *"

(b) Section 308 (i) of the Revenue Act of 1926 is amended to read as follows:

"(i) Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the estate, the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency * * *. In such case the running of the statute of limitations for assessment and collection as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension * * *."

Sec. 403. Revenue Act of 1932.

Except as provided in section 402, the tax imposed by section 401 of this Act shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by section 301 (a) of the Revenue Act of 1926, except that in the case of a resident decedent a return shall be required if the value of the gross estate at the time of the decedent's death exceeds $50,000.

Art. 105. Remedies for collection of tax and claims against transferred assets.—Three remedies are provided for the collection of the tax:

(1) *Collection by distraint.*—The collector may issue warrant of distraint authorizing the seizure and sale of any or all of the assets of the estate. (See R. S. secs. 3187 et seq., as amended by section 1016 of the Revenue Act of 1924; U. S. C., Sup. VII, title 26, sec. 1581.)

(2) *Collection by suit to subject the property to sale.*—The collector may commence in any court of the United States appropriate proceedings, in the name of the United States, to subject the property of the decedent to sale under the judgment or decree of the court.

(3) *Collection by suit for personal liability.*—The personal liability of the executor, of the transferee or trustee of property transferred in contemplation of or intended to take effect in possession or enjoyment at or after decedent's death, and of the beneficiary of life insurance, may be enforced by any appropriate action.

(4) *Claims against transferred assets.*—The amount for which a transferee of the property of a decedent is liable, at law or in equity, and the amount of the personal liability of a fiduciary under section 3467 of the Revised Statutes, as amended (see section 518 of the Revenue Act of 1934), in respect of any estate tax imposed by Title III of the Revenue Act of 1926, or by prior Acts, whether shown on the return of the executor or determined as a deficiency in the tax, shall be assessed against such transferee or such fiduciary, as the case may be, and collected and paid, in the same manner and subject to the same provisions and limitations as in the case of a deficiency imposed by Title III of the Revenue Act of 1926, except as hereinafter provided. The provisions relating to the payment of the tax and interest, the authorization of distraint and proceedings in court for collection, the prohibition of claims for abatement and claims and suits for refund, the filing of a petition with the Board of Tax Appeals, and the filing of a petition for review of the Board's decision, are included in various sections and articles relating to deficiencies in tax imposed by Title III.

The term "transferee" as used in this article includes an heir, legatee, devisee, and distributee of an estate of a deceased person.

The period of limitation for assessment of the liability of a transferee or of a fiduciary is as follows:

(*a*) Within one year after the expiration of the period of limitation for assessment against the taxpayer. (See sections 308, 310, 311, 312, 318, and 1109, and article 77.)

(*b*) If the period of limitation for assessment against the executor expired before the enactment of the Revenue Act of 1926 but assessment against the executor was made within such period, then within six years after the making of such assessment against the executor, but in no case later than one year after the enactment of the Revenue Act of 1926.

(*c*) If a court proceeding against the executor for the collection of the tax has been begun within the period of limitation for the bringing of such proceeding, then within one year after the return of execution in such proceeding.

If a notice of the liability of a transferee, or the liability of a fiduciary, has been mailed to such transferee or to such fiduciary under the provisions of section 308 (a) (see article 76), then the running of the statute of limitations shall be suspended for the period in which the Commissioner is prohibited from making the assessment (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

The provisions of section 316 do not apply in any suit or proceeding for the enforcement of the liability of a transferee, or a fiduciary under section 3467 of the Revised Statutes, as amended (see sec. 518 of the Revenue Act of 1934), which was pending at the time of the enactment of the Revenue Act of 1926.

The period of limitation, except in case of fraud or in case no return was filed, for collection of the tax by distraint or suit referred to in paragraphs (1), (2), and (3) of this article is six years after assessment if assessment of the tax was made within the statutory period of limitation or prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the executor. If an extension of time for payment of the tax is granted under the provisions of section 305 (b) or section 308 (i), as amended, the period within which collection by distraint or suit may be made is extended by the period of the extension granted for payment of the tax.

RECORDS, STATEMENTS, AND SPECIAL RETURNS

SEC. 1102. (a) Every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

* * * * * * *

(d) Any oath or affirmation required by the provisions of this Act or regulations made under authority thereof may be administered by any officer authorized to administer oaths for general purposes by the law of the United States or of any State, Territory, or possession of the United States, wherein such oath or affirmation is administered, or by any consular officer of the United States.

ART. 106. **Executor's duty to keep records.**—It is the duty of the executor to keep such records as the Commissioner may require. Executors are required to keep such complete and detailed records of the affairs of the estate as will enable the Commissioner to determine accurately the amount of the tax liability.

ART. 107. **Executor's duty to render statements.**—It is the duty of the executor not only to make the formal return, but also to render any other sworn statement which the Commissioner may require for the purpose of determining whether a tax liability exists and, if so, the extent thereof.

ESTATES ADMINISTERED IN THE UNITED STATES COURT FOR CHINA

SEC. 321. (a) The term "resident" as used in this title includes a citizen of the United States with respect to whose property any probate or administration proceedings are had in the United States Court for China. Where no part of the gross estate of such decedent is situated in the United States at the time of his death, the total amount of tax due under this title shall be paid to or collected by the clerk of such court, but where any part of the gross estate of such decedent is situated in the United States at the time of his death, the tax due under this title shall be paid to or collected by the collector of the district in which is situated the part of the gross estate in the United States, or, if such part is situated in more than one district, then the collector of such district as may be designated by the Commissioner.

(b) For the purpose of this section the clerk of the United States Court for China shall be a collector for the territorial jurisdiction of such court, and taxes shall be collected by and paid to him in the same manner and subject to the same provisions of law, including penalties, as the taxes collected by and paid to a collector in the United States.

NOTICE OF PERSONS ACTING AS FIDUCIARY

SEC. 317. (a) Upon notice to the Commissioner that any person is acting as executor, such person shall assume the powers, rights, duties, and privileges of an executor in respect of a tax imposed by this title or by any prior estate tax Act, until notice is given that such person is no longer acting as executor.

(b) Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 316, the fiduciary shall assume on behalf of such person the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) Notice under subdivision (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

(d) In the absence of any notice to the Commissioner under subdivision (a) or (b), notice under this title of a deficiency or other liability, if addressed in the name of the decedent or other person subject to liability and mailed to his last known address, shall be sufficient for the purposes of this title.

ART. 108. **Notice of persons acting as fiduciary.**—The "notice to the Commissioner" provided for in section 317 shall be in writing signed by the fiduciary and filed with the Commissioner, setting forth the name and address of the person for whom he is acting in a fiduciary capacity and also the nature of the liability of such person, accompanied by satisfactory evidence of his authority to act for such person in the fiduciary capacity. If the fiduciary capacity exists by order of court, a certified copy of the order of the court may be regarded as such satisfactory evidence. The written notice to the Commissioner need not be accompanied by evidence of the authority of the fiduciary to act if there is already on file with the Commissioner satisfactory evidence of the authority to act. Any such written notice which has been filed with the Commissioner since the enactment of the Revenue Act of 1926 shall be considered as sufficient notice to the Commissioner within the meaning of section 317 if and when there is or has been filed with the Commissioner the satisfactory evidence herein provided for. When the fiduciary capacity has terminated, the fiduciary, in order to be relieved of any further duty or liability as such, must file with the Commissioner written notice that the fiduciary capacity has terminated as to him, accompanied by satisfactory evidence of the termination of the fiduciary capacity. Such written notice should state the name and address of the person, if any, who has been substituted as fiduciary.

This article, made under the provisions of section 317 of the Revenue Act of 1926, shall not be taken to abridge in any way the powers and duties of fiduciaries provided for in other sections of Title III of the Act or in any prior estate tax Act.

SCOPE OF REPEAL

SEC. 1200. (a) The following parts of the Revenue Act of 1924 are repealed, to take effect (except as otherwise provided in this Act) upon the enactment of this Act, subject to the limitations provided in subdivision (b):

* * * * * * *

Part I of Title III (called "Estate Tax");

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Sections 1004, 1005, 1006, and 1007, subdivision (a) of section 1008, sections 1009, 1010, 1011, 1012, 1014, 1018, 1019, and 1020, subdivisions (a) and (b) of section 1021, subdivision (c) of section 1025, and sections 1026, 1027, 1028, 1029, 1030, and 1031 (being certain administrative provisions).

(b) The parts of the Revenue Act of 1924 which are repealed by this Act shall (except as provided in sections 283 and 318 and except as otherwise specifically provided in this Act), remain in force for the assessment and collection of all taxes imposed by such Act, and for the assessment, imposition, and collection of all interest, penalties, or forfeitures which have accrued or may accrue in relation to any such taxes and for the assessment and collection, to the extent provided in the Revenue Act of 1924, of all taxes imposed by prior income, war profits, or excess profits tax acts, and for the assessment, imposition, and collection of all interest, penalties, or forfeitures which have accrued or may accrue in relation to any such taxes. In the case of any tax imposed by any part of the Revenue Act of 1924 repealed by this Act, if there is a tax imposed by this Act in lieu thereof, the provision imposing such tax shall remain in force until the corresponding tax under this Act takes effect under the provisions of this Act.

SEC. 714. Revenue Act of 1928.

The parts of the Revenue Act of 1926 which are repealed by this Act shall remain in force for the assessment and collection of all taxes imposed thereby and for the assessment, imposition, and collection of all interest, penalties, or forfeitures which have accrued or may accrue in relation to any such taxes.

ART. 109. **Scope of repeal.**—The Revenue Act of 1926 retains in force (except as provided in section 318) the provisions of Part I, Title III, of the Revenue Act of 1924, and the provisions of estate tax titles of all prior Acts, for the assessment and collection of all taxes accruing thereunder and for the imposition and collection of all penalties which have accrued or may accrue in relation to any such taxes. The Revenue Act of 1928 to the same extent, and for the same purpose, retains in force the parts of the Revenue Act of 1926 repealed by the Revenue Act of 1928.

RULES AND REGULATIONS

SEC. 1101. The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this Act.

SEC. 506. Revenue Act of 1934.

Section 1108(a) of the Revenue Act of 1926, as amended, is amended to read as follows:

"(a) The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect."

ART. 110. **Promulgation of regulations.**—In pursuance of the statute, the foregoing regulations are hereby made and promulgated. The regulations relating to the provisions of law (including penalties) as to assessment, collection, and payment of the tax imposed by Title III of the Revenue Act of 1926 apply to the additional estate tax imposed by Title II of the Revenue Act of 1932 and the tax imposed by the Revenue Act of 1932 as amended by the Revenue Act of 1934. The regulations also apply to all pending estate tax cases unless a particular question is governed by a specific provision of the earlier statutes differing from the Revenue Act of 1926, as amended and supplemented by the Revenue Act of 1928, the Revenue Act of 1932, and the Revenue Act of 1934, in which case the provisions of the applicable statute control, and Regulations 37 (revised January, 1921), Regulations 63, Regulations 68, and Regulations 70 (1929 Edition), as amended by Treasury Decisions relating thereto, to that extent remain in full force and effect.

Wright Matthews,
Acting Commissioner of Internal Revenue.

Approved November 7, 1934.
T. J. Coolidge,
Acting Secretary of the Treasury.

APPENDIX

REVENUE ACT OF 1926

(As originally enacted, with references to pages showing amendments)

TITLE III.—ESTATE TAX

Sec. 300. When used in this title—

(a) The term "executor" means the executor or administrator of the decedent, or, if there is no executor or administrator appointed, qualified, and acting within the United States, then any person in actual or constructive possession of any property of the decedent;

(b) The term "net estate" means the net estate as determined under the provisions of section 303;

(c) The term "month" means calendar month; and

(d) The term "collector" means the collector of internal revenue of the district in which was the domicile of the decedent at the time of his death, or, if there was no such domicile in the United States, then the collector of the district in which is situated the part of the gross estate of the decedent in the United States, or, if such part of the gross estate is situated in more than one district, then the collector of internal revenue of such district as may be designated by the Commissioner.

Sec. 301. (a) In lieu of the tax imposed by Title III of the Revenue Act of 1924, a tax equal to the sum of the following percentages of the value of the net estate (determined as provided in section 303) is hereby imposed upon the transfer of the net estate of every decedent dying after the enactment of this act, whether a resident or nonresident of the United States;

1 per centum of the amount of the net estate not in excess of $50,000;

2 per centum of the amount by which the net estate exceeds $50,000 and does not exceed $100,000;

3 per centum of the amount by which the net estate exceeds $100,000 and does not exceed $200,000;

4 per centum of the amount by which the net estate exceeds $200,000 and does not exceed $400,000;

5 per centum of the amount by which the net estate exceeds $400,000 and does not exceed $600,000;

6 per centum of the amount by which the net estate exceeds $600,000 and does not exceed $800,000;

7 per centum of the amount by which the net estate exceeds $800,000 and does not exceed $1,000,000;

8 per centum of the amount by which the net estate exceeds $1,000,000 and does not exceed $1,500,000;

9 per centum of the amount by which the net estate exceeds $1,500,000 and does not exceed $2,000,000;

10 per centum of the amount by which the net estate exceeds $2,000,000 and does not exceed $2,500,000;

11 per centum of the amount by which the net estate exceeds $2,500,000 and does not exceed $3,000,000;

12 per centum of the amount by which the net estate exceeds $3,000,000 and does not exceed $3,500,000;

13 per centum of the amount by which the net estate exceeds $3,500,000 and does not exceed $4,000,000;

14 per centum of the amount by which the net estate exceeds $4,000,000 and does not exceed $5,000,000;

15 per centum of the amount by which the net estate exceeds $5,000,000 and does not exceed $6,000,000;

16 per centum of the amount by which the net estate exceeds $6,000,000 and does not exceed $7,000,000;

17 per centum of the amount by which the net estate exceeds $7,000,000 and does not exceed $8,000,000;

18 per centum of the amount by which the net estate exceeds $8,000,000 and does not exceed $9,000,000;

19 per centum of the amount by which the net estate exceeds $9,000,000 and does not exceed $10,000,000;

20 per centum of the amount by which the net estate exceeds $10,000,000.[1]

(b) The tax imposed by this section shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia, in respect of any property included in the gross estate. The credit allowed by this subdivision shall not exceed 80 per centum of the tax imposed by this section, and shall include only such taxes as were actually paid and credit therefor claimed within three years after the filing of the return required by section 304.[2]

Sec. 302. The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—[3]

(a) To the extent of the interest therein of the decedent at the time of his death;

(b) To the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower, curtesy, or by virtue of a statute creating an estate in lieu of dower or curtesy;

(c) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth. Where within two years prior to his death but after the enactment of this Act and without such a consideration the decedent has made a transfer or transfers, by trust or otherwise, of any of his property, or an interest therein, not admitted or shown to have been made in contemplation of or intended to take effect in possession or enjoyment at or after his death, and the value or aggregate value, at the time of such death, of the property or interest so transferred to any one person is in excess of $5,000, then, to the extent of such excess, such transfer or transfers shall be deemed and held to have been made in contemplation of death within the meaning of this title. Any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death but prior to the enactment of this Act, without such consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title;[4]

(d) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power,

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[1] See pages 2, 4, 17. [2] See pages 17, 18, 19. [3] See page 24. [4] See page 37.

either by the decedent alone or in conjunction with any person, to alter, amend, or revoke, or where the decedent relinquished any such power in contemplation of his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth. The relinquishment of any such power, not admitted or shown to have been in contemplation of the decedent's death, made within two years prior to his death but after the enactment of this Act without such a consideration and affecting the interest or interests (whether arising from one or more transfers or the creation of one or more trusts) of any one beneficiary of a value or aggregate value, at the time of such death, in excess of $5,000, then, to the extent of such excess, such relinquishment or relinquishments shall be deemed and held to have been made in contemplation of death within the meaning of this title;[1]

(e) To the extent of the interest therein held as joint tenants by the decedent and any other person, or as tenants by the entirety by the decedent and spouse, or deposited, with any person carrying on the banking business, in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth: *Provided*, That where such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or money's worth, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person: *Provided further*, That where any property has been acquired by gift, bequest, devise, or inheritance, as a tenancy by the entirety by the decedent and spouse, then to the extent of one-half of the value thereof, or, where so acquired by the decedent and any other person as joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants;

(f) To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of, or intended to take effect in possession or enjoyment at or after, his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth; and[2]

(g) To the extent of the amount receivable by the executor as insurance under policies taken out by the decedent upon his own life; and to the extent of the excess over $40,000 of the amount receivable by all other beneficiaries as insurance under policies taken out by the decedent upon his own life.

(h) Except as otherwise specifically provided therein subdivisions (b), (c), (d), (e), (f), and (g) of this section shall apply to the transfers, trusts, estates, interests, rights, powers, and relinquishment of powers, as severally enumerated and described therein, whether made, created, arising, existing, exercised, or relinquished before or after the enactment of this Act.

(i) If any one of the transfers, trusts, interests, rights, or powers, enumerated and described in subdivisions (c), (d), and (f) of this section is made, created, exercised, or relinquished for a consideration in money or money's worth, but is not a bona fide sale for an adequate and full consideration in money or money's worth, there shall be included in the gross estate only the excess of the fair market value at the time of death of the property otherwise to be included on account of such transaction, over the value of the consideration received therefor by the decedent.

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[1] See page 38. [2] See page 47.

Sec. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a resident, by deducting from the value of the gross estate—[1]

(1) Such amounts for funeral expenses, administration expenses, claims against the estate, unpaid mortgages upon, or any indebtedness in respect to, property (except, in the case of a resident decedent, where such property is not situated in the United States), to the extent that such claims, mortgages, or indebtedness were incurred or contracted bona fide and for an adequate and full consideration in money or money's worth, losses incurred during the settlement of the estate arising from fires, storms, shipwreck, or other casualty, or from theft, when such losses are not compensated for by insurance or otherwise, and such amounts reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent, as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered, but not including any income taxes upon income received after the death of the decedent, or any estate, succession, legacy, or inheritance taxes;[2]

(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from such donor by gift or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1924, or an estate tax imposed under this or any prior Act of Congress was paid by or on behalf of the donor or the estate of such prior decedent as the case may be, and only in the amount of the value placed by the Commissioner on such property in determining the value of the gift or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate and not deducted under paragraph (1) or (3) of this subdivision;[3]

(3) The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. The amount of the deduction under this paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate; and[4]

(4) An exemption of $100,000.[5]

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—[6]

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[1] See page 52. [2] See page 51. [3] See page 57. [4] See page 64. [5] See page 67. [6] See page 71.

(1) That proportion of the deductions specified in paragraph (1) of subdivision (a) of this section which the value of such part bears to the value of his entire gross estate, wherever situated, but in no case shall the amount so deducted exceed 10 per centum of the value of that part of his gross estate which at the time of his death is situated in the United States;[1]

(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from such donor by gift or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1924, or an estate tax imposed under this or any prior Act of Congress was paid by or on behalf of the donor or the estate of such prior decedent as the case may be, and only in the amount of the value placed by the Commissioner on such property in determining the value of the gift or the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States and not deducted under paragraph (1) or (3) of this subdivision; and[1]

(3) The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. The amount of the deduction under this paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate.[1]

(c) No deduction shall be allowed in the case of a nonresident unless the executor includes in the return required to be filed under section 304 the value at the time of his death of that part of the gross estate of the nonresident not situated in the United States.[2]

(d) For the purpose of this title, stock in a domestic corporation owned and held by a nonresident decedent shall be deemed property within the United States, and any property of which the decedent has made a transfer, by trust or otherwise, within the meaning of subdivision (c) or (d) of section 302, shall be deemed to be situated in the United States, if so situated either at the time of the transfer, or at the time of the decedent's death.[3]

(e) The amount receivable as insurance upon the life of a nonresident decedent, and any moneys deposited with any person carrying on the banking business, by or for a nonresident decedent who was not engaged in business in the United States at the time of his death, shall not, for the purpose of this title, be deemed property within the United States.[4]

(f) Missionaries duly commissioned and serving under boards of foreign missions of the various religious denominations in the United States, dying while in the foreign missionary service of such boards, shall not, by reason merely of their intention to permanently remain in such foreign service, be deemed nonresidents of the United States, but shall be presumed to be residents of the State, the District of Columbia, or the Territories of Alaska or Hawaii wherein they respectively resided at the time of their commission and their departure for such foreign service.

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[1] See page 70. [2] See page 71. [3] See pages 37, 68. [4] See page 68.

SEC. 304. (a) The executor, within two months after the decedent's death, or within a like period after qualifying as such, shall give written notice thereof to the collector. The executor shall also, at such times and in such manner as may be required by regulations made pursuant to law, file with the collector a return under oath in duplicate, setting forth (1) the value of the gross estate of the decedent at the time of his death, or, in case of a nonresident, of that part of his gross estate situated in the United States; (2) the deductions allowed under section 303; (3) the value of the net estate of the decedent as defined in section 303; and (4) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.[1]

(b) Return shall be made in all cases where the gross estate at the death of the decedent exceeds $100,000, and in the case of the estate of every nonresident any part of whose gross estate is situated in the United States. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross estate.[2]

SEC. 305. (a) The tax imposed by this title shall be due and payable one year after the decedent's death, and shall be paid by the executor to the collector.

(b) Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed five years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

(c) If the time for the payment is thus extended there shall be collected, as a part of such amount, interest thereon at the rate of 6 per centum per annum from the expiration of six months after the due date of the tax to the date of the expiration of the period of the extension.[3]

(d) The time for which the Commissioner may extend the time for payment of the estate tax imposed by Title IV of the Revenue Act of 1921 shall be five years.

SEC. 306. As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

SEC. 307. As used in this title in respect of a tax imposed by this title the term "deficiency" means—

(1) The amount by which the tax imposed by this title exceeds the amount shown as the tax by the executor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax; or

(2) If no amount is shown as the tax by the executor upon his return, or if no return is made by the executor, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assess-

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[1] See page 78.
[2] See page 74.
[3] See pages 101, 102.

ment, shall first be decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax.

SEC. 308. (a) If the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the executor by registered mail. Within 60 days after such notice is mailed (not counting Sunday as the sixtieth day), the executor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. Except as otherwise provided in subdivision (d) or (f) of this section or in section 312 or 1001, no assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the executor, nor until the expiration of such 60-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.[1]

(b) If the executor files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) If the executor does not file a petition with the Board within the time prescribed in subdivision (a) of this section, the deficiency, notice of which has been mailed to the executor, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) The executor shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subdivision (a) of this section on the assessment and collection of the whole or any part of the deficiency.

(e) The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the executor, and to determine whether any additional amount or addition to the tax should be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) If after the enactment of this Act the Commissioner has mailed to the executor notice of a deficiency as provided in subdivision (a), and the executor files a petition with the Board within the time prescribed in such subdivision, the Commissioner shall have no right to determine any additional deficiency, except in the case of fraud, and except as provided in subdivision (e) of this section or in subdivision (c) of section 312. If the executor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered, for the purposes of this subdivision or of subdivision (a) of this section, or of section 319, as a notice of a deficiency, and the executor shall have no right to file a petition with the Board of Tax Appeals based on such notice, nor shall such assessment or collection be prohibited by the provisions of subdivision (a) of this section.

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[1] See page 86.

(g) For the purposes of this title the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1005.

(h) Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the due date of the tax to the date the deficiency is assessed, or, in the case of a waiver under subdivision (d) of this section, to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

(i) Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the estate, the Commissioner with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax) may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of two years. If an extension is granted, the Commissioner may require the executor to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension. In such case there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 1 per centum a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.[1]

(j) The 50 per centum addition to the tax provided by section 3176 of the Revised Statutes, as amended, shall, when assessed after the enactment of this Act in connection with an estate tax, be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of subdivision (h) of this section shall not be applicable.

SEC. 309. (a) (1) Where the amount determined by the executor as the tax imposed by this title, or any part of such amount, is not paid on the due date of the tax, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 1 per centum a month from the due date until it is paid.

(2) Where an extension of time for payment of the amount so determined as the tax by the executor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under subdivision (c) of section 305, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subdivision, interest at the rate of 1 per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) Where a deficiency, or any interest assessed in connection therewith under subdivision (h) of section 308, or any addition to the tax provided for in section 3176 of the Revised Statutes, as amended, is not paid in full within 30 days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at

the rate of 1 per centum a month from the date of such notice and demand until it is paid.

(c) If a bond is filed, as provided in section 312, the provisions of subdivision (b) of this section shall not apply to the amount covered by the bond.

SEC. 310. (a) Except as provided in section 311, the amount of the estate taxes imposed by this title shall be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed.

(b) The running of the statute of limitations provided in this section or in section 311 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under subdivision (a) of section 308) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court, and for 60 days thereafter.[1]

SEC. 311. (a) In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(b) Where the assessment of any tax imposed by this title or of any estate or gift tax imposed by prior Act of Congress has been made (whether before or after the enactment of this Act) within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this Act), but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the executor.

(c) This section shall not bar a distraint or proceeding in court begun before the enactment of the Revenue Act of 1924; nor shall it authorize the assessment of a tax or the collection thereof by distraint or by proceeding in court (1) if at the time of the enactment of this Act such assessment, distraint, or proceeding was barred by the statutory period of limitation properly applicable thereto, unless prior to the enactment of this Act the Commissioner and the executor agreed in writing thereto, or (2) contrary to the provisions of subdivision (a) of section 308 of this Act.

SEC. 312. (a) If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under subdivision (a) of section 308, then the Commissioner shall mail a notice under such subdivision within 60 days after the making of the assessment.

(c) The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the executor, despite the provisions of subdivision (f) of section 308 and whether or not the executor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner shall notify the Board of the amount of such assessment, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

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[1] See page 101.

[1] See page 96.

(d) If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

(e) A jeopardy assessment may not be made after the decision of the Board has become final or after the executor has filed a petition for review of the decision of the Board.

(f) When a jeopardy assessment has been made the executor, within 30 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in subdivision (j) of this section.

(g) If the bond is given before the executor has filed his petition with the Board under subdivision (a) of section 308, the bond shall contain a further condition that if a petition is not filed within the period provided in such subdivision, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subdivision.

(h) Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The executor shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the executor, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the executor, be proportionately reduced.

(i) When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be refunded. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

(j) In the case of the amount collected under subdivision (i) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under subdivision (i) of this section, or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in subdivision

(h) of section 308. If the amount included in the notice and demand from the collector under subdivision (i) of this section is not paid in full within 30 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

(k) No claim in abatement shall be filed in respect of any assessment made after the enactment of this Act in respect of any estate cr gift tax.

SEC. 313. (a) The collector shall grant to the person paying the tax duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts.

(b) If the executor makes written application to the Commissioner for determination of the amount of the tax and discharge from personal liability therefor, the Commissioner (as soon as possible, and in any event within one year after the making of such application, or, if the application is made before the return is filed, then within one year after the return is filed, but not after the expiration of the period prescribed for the assessment of the tax in section 310) shall notify the executor of the amount of the tax. The executor, upon payment of the amount of which he is notified, shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

(c) The provisions of subdivision (b) shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless the title to such part of the gross estate has passed to a bona fide purchaser for value, in which case such part shall not be subject to a lien or to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser by the heirs, legatees, devisees, or distributees.

SEC. 314. (a) If the tax herein imposed is not paid on or before the due date thereof the collector shall, upon instruction from the Commissioner, proceed to collect the tax under the provisions of general law, or commence appropriate proceedings in any court of the United States having jurisdiction, in the name of the United States, to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. This subdivision in so far as it applies to the collection of a deficiency shall be subject to the provisions of section 308.

(b) If the tax or any part thereof is paid by, or collected out of that part of the estate passing to or in the possession of, any person other than the executor in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the persons whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this title that so for as is practicable and unless otherwise directed by the will of the decedent the tax shall be paid out of the estate before its distribution. If any part of the gross estate consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds, in excess of $40,000, of such policies bear to the net estate. If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio.

Sec. 315. (a) Unless the tax is sooner paid in full, it shall be a lien for ten years upon the gross estate of the decedent, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien. If the Commissioner is satisfied that the tax liability of an estate has been fully discharged or provided for, he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate, releasing any or all property of such estate from the lien herein imposed.

(b) If (1) the decedent makes a transfer, by trust or otherwise, of any property in contemplation of or intended to take effect in possession or enjoyment at or after his death (except in the case of a bona fide sale for an adequate and full consideration in money or money's worth) or (2) if insurance passes under a contract executed by the decedent in favor of a specific beneficiary, and if in either case the tax in respect thereto is not paid when due, then the transferee, trustee, or beneficiary shall be personally liable for such tax, and such property, to the extent of the decedent's interest therein at the time of such transfer, or to the extent of such beneficiary's interest under such contract of insurance, shall be subject to a like lien equal to the amount of such tax. Any part of such property sold by such transferee or trustee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien and a like lien shall then attach to all the property of such transferee or trustee, except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth.[1]

Sec. 316. (a) The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) The liability, at law or in equity, of a transferee of property of a decedent or donor, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed by this title or by any prior estate tax Act or by any gift tax Act.

(2) The liability of a fiduciary under section 3467 of the Revised Statutes in respect of the payment of any such tax from the estate of the decedent or donor.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) Within one year after the expiration of the period of limitation for assessment against the executor or donor; or

(2) If the period of limitation for assessment against the executor expired before the enactment of this Act but assessment against the executor was made within such period,—then within six years after the making of such assessment against the executor, but in no case later than one year after the enactment of this Act.

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[1] See page 114.

(3) If a court proceeding against the executor or donor for the collection of the tax has been begun within either of the above periods,—then within one year after return of execution in such proceeding.

(c) The running of the period of limitation upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under subdivision (a) of section 308 to the transferee or fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary, and for 60 days thereafter.[1]

(d) This section shall not apply to any suit or other proceeding for the enforcement of the liability of a transferee or fiduciary pending at the time of the enactment of this Act.

(e) As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee.

Sec. 317. (a) Upon notice to the Commissioner that any person is acting as executor, such person shall assume the powers, rights, duties, and privileges of an executor in respect of a tax imposed by this title or by any prior estate tax Act, until notice is given that such person is no longer acting as executor.

(b) Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 316, the fiduciary shall assume on behalf of such person the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) Notice under subdivision (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

(d) In the absence of any notice to the Commissioner under subdivision (a) or (b), notice under this title of a deficiency or other liability, if addressed in the name of the decedent or other person subject to liability and mailed to his last known address, shall be sufficient for the purposes of this title.

Sec. 318. (a) If after the enactment of this Act the Commissioner determines that any assessment should be made in respect of any estate or gift tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, the Revenue Act of 1921, or the Revenue Act of 1924, or by any such Act as amended, the Commissioner is authorized to send by registered mail to the person liable for such tax notice of the amount proposed to be assessed, which notice shall, for the purposes of this Act, be considered a notice under subdivision (a) of section 308 of this Act. In the case of any such determination the amount which should be assessed (whether as deficiency or additional tax or as interest, penalty, or other addition to the tax) shall be computed as if this Act had not been enacted, but the amount so computed shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including the provisions in case of delinquency in payment after notice and demand and the provisions prohibiting claims and suits for refund) as in the case of a deficiency in the tax imposed by this title, except that in the case of an estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, the period of limitation prescribed in section 1109 of this Act shall be applied in lieu of the period prescribed in subdivision (a) of section 310.

(b) If before the enactment of this Act any person has appealed to the Board of Tax Appeals under subdivision (a) of section 308 of the Revenue Act of 1924 (if such appeal relates to a tax imposed by Title III of such Act or to so much of an estate tax imposed by any of the prior Acts enumerated in subdivision (a) of this section as was not assessed before June 3, 1924), and the appeal is pending before the Board at the time of the enactment of this Act, the Board shall have jurisdiction of the appeal. In all such cases the powers, duties, rights, and privileges of the Commissioner and of the person who has brought the appeal, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (a) of this section, except as provided in subdivision (h) of this section and except that the person liable for the tax shall not be subject to the provisions of subdivision (a) of section 319.

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[1] See page 136.

(c) If before the enactment of this Act the Commissioner has mailed to any person a notice under subdivision (a) of section 308 of the Revenue Act of 1924 (whether in respect of a tax imposed by Title III of such Act or in respect of so much of an estate tax imposed by any of the prior Acts enumerated in subdivision (a) of this section as was not assessed before June 3, 1924), and if the 60-day period referred to in such subdivision has not expired before the enactment of this Act and no appeal has been filed before the enactment of this Act, such person may file a petition with the Board in the same manner as if a notice of deficiency had been mailed after the enactment of this Act in respect of a deficiency in a tax imposed by this title. In such cases the 60-day period referred to in subdivision (a) of section 308 of this Act shall begin on the date of the enactment of this Act, and the powers, duties, rights, and privileges of the Commissioner and of the person entitled to file the petition, and the jurisdiction of the Board and of the courts, shall, whether or not the petition is filed, be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (a) of this section.

(d) If any deficiency in any estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before the date of the enactment of this Act, and if the Commissioner, after the enactment of this Act, finally determines the amount of the deficiency, he is authorized to send by registered mail to the person liable for such tax notice of such deficiency, which notice shall, for the purposes of this Act, be considered a notice under subdivision (a) of section 308 of this Act. In the case of any such final determination the amount of the tax (whether as deficiency or additional tax or as interest, penalty, or other addition to the tax) shall be computed as if this Act had not been enacted, but the amount so computed shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including the provisions in cases of delinquency in payment after notice and demand, and the provisions relating to claims and suits for refund) as in the case of a deficiency in the tax imposed by this title, except as otherwise provided in subdivision (g) of this section, and except that the period of limitation prescribed in section 1109 of this Act shall be applied in lieu of the period prescribed in subdivision (a) of section 310.

(e) If any deficiency in any estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before that date, and if the Commissioner after June 2, 1924, but before the enactment of this Act, finally determined the amount of the deficiency, and if the person liable for such tax appealed before the enactment of this Act to the Board of Tax Appeals and the appeal is pending before the Board at the time of the enactment of this Act, the Board shall have jurisdiction of the appeal. In all such cases the powers, duties, rights, and privileges of the Commissioner and of the person who has brought the appeal, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (d) of this section, except as provided in subdivision (h) of this section and except that the person liable for the tax shall not be subject to the provisions of subdivision (a) of section 319.

(f) If any deficiency in any estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before the date of the enactment of this Act, and if the Commissioner after June 2, 1924, finally determined the amount of the deficiency, and notified the person liable for such tax to that effect less than 60 days prior to the enactment of this Act and no appeal has been filed before the enactment of this Act, the person so notified may file a petition with the Board in the same manner as if a notice of deficiency had been mailed after the enactment of this Act in respect of a deficiency in a tax imposed by this title. In such cases the 60-day period referred to in subdivision (a) of section 308 of this Act shall begin on the date of the enactment of this Act, and, whether or not the petition is filed, the powers, duties, rights, and privileges of the Commissioner and of the person who is so notified, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax be made, in the same manner as provided in subdivision (d) of this section.

(g) In cases within the scope of subdivision (d), (e), or (f), if the Commissioner believes that the collection of the deficiency will be jeopardized by delay, he may, despite the provisions of subdivision (a) of section 308 of this Act, instruct the collector to proceed to enforce the payment of the unpaid portion of the deficiency, and notice and demand shall be made by the collector for the payment thereof. Within 30 days after such jeopardy notice and demand the person liable for the tax may obtain a stay of collection of the whole or any part of the amount included in the notice and demand by filing with the collector a bond in like manner, under the same conditions, and with the same effect, as in the case of a bond to stay the collection of a jeopardy assessment under section 312 of this Act.

(h) In cases within the scope of subdivision (b) or (e) of this section where any hearing before the Board has been held before the enactment of this Act and the decision is rendered after the enactment of this Act, such decision shall, for the purposes of this title, be considered to have become final upon the date when it is rendered and neither party shall have any right to petition for a review of the decision. The Commissioner may, within one year from the time the decision is rendered, begin a proceeding in court for the collection of any part of the amount disallowed by the Board, unless the statutory period of limitations properly applicable thereto has expired before the appeal was taken to the Board. The court shall include in its judgment interest upon the amount thereof in the same cases, at the same rate, and for the same period, as if such amount were collected otherwise than by proceeding in court. In any such proceeding by the Commissioner or in any suit by the taxpayer for a refund, the findings of the Board shall be prima facie evidence of the facts therein stated.

(i) Where before the enactment of this Act a jeopardy assessment has been made under subdivision (d) of section 308 of the Revenue Act of 1924 (whether of a deficiency in the tax imposed by Title III of such Act or of a deficiency in an estate tax imposed by any of the prior Acts enumerated in subdivision (a) of this section) all proceedings after the enactment of this Act shall be the same as under the Revenue Act of 1924 as amended by this Act, except that—

(1) A decision of the Board rendered after the enactment of this Act where no hearing has been held by the Board before the enactment of this Act may be reviewed in the same manner as provided in this Act in the case of a tax imposed by this title;

(2) Where no hearing has been held by the Board before the enactment of this Act, the Commissioner shall have no right to begin a proceeding in court for the collection of any part of the deficiency disallowed by the Board; and

(3) In the consideration of the case the jurisdiction and powers of the Board shall be the same as provided in this Act in the case of a tax imposed by this title.

(j) In the case of any estate or gift tax imposed by prior Act of Congress, in computing the period of limitations provided in section 310 or 311 of this Act on the making of assessments and the beginning of distraint or a proceeding in court, the running of the statute of limitations shall be considered to have been suspended (in addition to the period of suspension provided for in subdivision (b) of section 310) for any period prior to the enactment of this Act during which the Commissioner was prohibited from making the assessment or beginning distraint or proceeding in court.

SEC. 319. (a) If the Commissioner has mailed to the executor a notice of deficiency under subdivision (a) of section 308 and if the executor after the enactment of this Act files a petition with the Board of Tax Appeals within the time prescribed in such subdivision, no refund in respect of the tax shall be allowed or made and no suit for the recovery of any part of such tax shall be instituted in any court, except—

(1) As provided in subdivision (c) of this section or in subdivision (i) of section 312 or in subdivision (b), (e), or (g) of section 318 or in subdivision (d) of section 1001; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(3) As to any amount collected after the statutory period of limitations upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for refund or in any such suit for refund the decision of the Board which has become final, as to whether such period had expired before the notice of deficiency was mailed, shall be conclusive.

(b) All claims for the refunding of the tax imposed by this title alleged to have been erroneously or illegally assessed or collected must be presented to the Commissioner within three years next after the payment of such tax.[1]

(c) If the Board finds that there is no deficiency and further finds that the executor has made an overpayment of tax, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the executor as provided in section 3220 of the Revised Statutes, as amended. Such refund shall be made either (1) if claim therefor was filed within the period of limitation provided for by law, or (2) if the petition was filed with the Board within four years after the tax was paid, or, in the case of a tax imposed by this title, within three years after the tax was paid.[1]

SEC. 320. (a) Whoever knowingly makes any false statement in any notice or return required to be filed under this title shall be liable to a penalty of not exceeding $5,000, or imprisonment not exceeding one year, or both.

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[1] See page 124.

(b) Whoever fails to comply with any duty imposed upon him by section 304, or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request to the Commissioner or any collector or law officer of the United States or his duly authorized deputy or agent, who desires to examine the same in the performance of his duties under this title, shall be liable to a penalty of not exceeding $500, to be recovered, with costs of suit, in a civil action in the name of the United States.

SEC. 321. (a) The term "resident" as used in this title includes a citizen of the United States with respect to whose property any probate or administration proceedings are had in the United States Court for China. Where no part of the gross estate of such decedent is situated in the United States at the time of his death, the total amount of tax due under this title shall be paid to or collected by the clerk of such court, but where any part of the gross estate of such decedent is situated in the United States at the time of his death, the tax due under this title shall be paid to or collected by the collector of the district in which is situated the part of the gross estate in the United States, or, if such part is situated in more than one district, then the collector of such district as may be designated by the Commissioner.

(b) For the purpose of this section the clerk of the United States Court for China shall be a collector for the territorial jurisdiction of such court, and taxes shall be collected by and paid to him in the same manner and subject to the same provisions of law, including penalties, as the taxes collected by and paid to a collector in the United States.

SEC. 322. (a) Subdivision (a) of section 301 of the Revenue Act of 1924 is amended to read as follows:

"SEC. 301. (a) In lieu of the tax imposed by Title IV of the Revenue Act of 1921, a tax equal to the sum of the following percentages of the value of the net estate (determined as provided in section 303) is hereby imposed upon the transfer of the net estate of every decedent dying after the enactment of this Act, whether a resident or nonresident of the United States:

"1 per centum of the amount of the net estate not in excess of $50,000;

"2 per centum of the amount by which the net estate exceeds $50,000 and does not exceed $150,000;

"3 per centum of the amount by which the net estate exceeds $150,000 and does not exceed $250,000;

"4 per centum of the amount by which the net estate exceeds $250,000 and does not exceed $450,000;

"6 per centum of the amount by which the net estate exceeds $450,000 and does not exceed $750,000;

"8 per centum of the amount by which the net estate exceeds $750,000 and does not exceed $1,000,000;

"10 per centum of the amount by which the net estate exceeds $1,000,000 and does not exceed $1,500,000;

"12 per centum of the amount by which the net estate exceeds $1,500,000 and does not exceed $2,000,000;

"14 per centum of the amount by which the net estate exceeds $2,000,000 and does not exceed $3,000,000;

"16 per centum of the amount by which the net estate exceeds $3,000,000 and does not exceed $4,000,000;

"18 per centum of the amount by which the net estate exceeds $4,000,000 and does not exceed $5,000,000;

"20 per centum of the amount by which the net estate exceeds $5,000,000 and does not exceed $8,000,000;

"22 per centum of the amount by which the net estate exceeds $8,000,000 and does not exceed $10,000,000; and

"25 per centum of the amount by which the net estate exceeds $10,000,000."

(b) Subdivision (a) of this section shall take effect as of June 2, 1924.

Sec. 323. (a) So much of paragraph (3) of subdivision (a) and of paragraph (3) of subdivision (b) of section 303 of the Revenue Act of 1924 as reads as follows: "If the tax imposed by section 301, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes" is repealed.

(b) Subdivision (a) of this section shall take effect as of June 2, 1924.

TITLE XI.—GENERAL ADMINISTRATIVE PROVISIONS

LAWS MADE APPLICABLE

Sec. 1100. All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this Act.

RULES AND REGULATIONS

Sec. 1101. The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this Act.

RECORDS, STATEMENTS, AND SPECIAL RETURNS

Sec. 1102. (a) Every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

(c) The Commissioner, with the approval of the Secretary, may by regulation prescribe that any return required by any internal revenue law (except returns required under income or estate tax laws) to be under oath may, if the amount of the tax covered thereby is not in excess of $10, be signed or acknowledged before two witnesses instead of under oath.

(d) Any oath or affirmation required by the provisions of this Act or regulations made under authority thereof may be administered by any officer authorized to administer oaths for general purposes by the law of the United States or of any State, Territory, or possession of the United States, wherein such oath or affirmation is administered, or by any consular officer of the United States.

Sec. 1103. Section 3176 of the Revised Statutes, as amended, is amended to read as follows:

"Sec. 3176. If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner of Internal Revenue may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

"If the failure to file a return (other than a return under Title II of the Revenue Act of 1924 or Title II of the Revenue Act of 1926) or a list is due to sickness or absence, the collector may allow such further time, not exceeding 30 days, for making and filing the return or list as he deems proper.[1]

"The Commissioner of Internal Revenue shall determine and assess all taxes, other than stamp taxes, as to which returns or lists are so made under the provisions of this section. In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

"The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax."

EXAMINATION OF BOOKS AND WITNESSES

Sec. 1104. The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any revenue agent or inspector designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

UNNECESSARY EXAMINATIONS

Sec. 1105. No taxpayer shall be subjected to unnecessary examinations or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the Commissioner, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

FINAL DETERMINATIONS AND ASSESSMENTS

Sec. 1106. (a) The bar of the statute of limitations against the United States in respect of any internal-revenue tax shall not only operate to bar the remedy but shall extinguish the liability; but no credit or refund in respect of such tax shall be allowed unless the taxpayer has overpaid the tax. The bar of the statute of limitations against the taxpayer in respect of any internal-revenue tax shall not only operate to bar the remedy but shall extinguish the liability; but no collection in respect of such tax shall be made unless the taxpayer has underpaid the tax.[1]

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[1] See page 82.

(b) If after a determination and assessment in any case the taxpayer has paid in whole any tax or penalty, or accepted any abatement, credit, or refund based on such determination and assessment, and an agreement is made in writing between the taxpayer and the Commissioner, with the approval of the Secretary, that such determination and assessment shall be final and conclusive, then (except upon a showing of fraud or malfeasance or misrepresentation of fact materially affecting the determination or assessment thus made) (1) the case shall not be reopened or the determination and assessment modified by any officer, employee, or agent of the United States, and (2) no suit, action, or proceeding to annul, modify, or set aside such determination or assessment shall be entertained by any court of the United States.[2]

ADMINISTRATIVE REVIEW

SEC. 1107. In the absence of fraud or mistake in mathematical calculation, the findings of facts in and the decision of the Commissioner upon (or in case the Secretary is authorized to approve the same, then after such approval) the merits of any claim presented under or authorized by the internal-revenue laws shall not, except as provided in Title IX of the Revenue Act of 1924, as amended, be subject to review by any other administrative or accounting officer, employee, or agent of the United States.

RETROACTIVE REGULATIONS

SEC. 1108. (a) In case a regulation or Treasury decision relating to the internal-revenue laws, made by the Commissioner or the Secretary, or by the Commissioner with the approval of the Secretary, is reversed by a subsequent regulation or Treasury decision, and such reversal is not immediately occasioned or required by a decision of a court of competent jurisdiction, such subsequent regulation or Treasury decision may, in the discretion of the Commissioner, with the approval of the Secretary, be applied without retroactive effect.[3]

LIMITATION ON ASSESSMENTS AND SUITS BY THE UNITED STATES

SEC. 1109. (a) Except as provided in sections 277, 278, 310, and 311—[4]

(1) Notwithstanding the provisions of section 3182 of the Revised Statutes or any other provision of law, all internal-revenue taxes shall (except as provided in paragraph (2) or (3) of this subdivision) be assessed within four years after such taxes became due, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of five years after such taxes became due.

(2) In case of a false or fraudulent return with intent to evade tax, of a failure to file a return within the time required by law, or of a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(3) Where the assessment of any tax imposed by this Act or by prior Act of Congress has been made (whether before or after the enactment of this

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[1] See page 127.
[2] See page 125.
[3] See page 141.
[4] See page 95.

Act) within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this Act), but only if begun (A) within six years after the assessment of the tax, or (B) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer.

(b) This section shall not bar a distraint or proceeding in court begun before the enactment of the Revenue Act of 1924; nor shall it authorize the assessment of a tax or the collection thereof by distraint or by proceeding in court if at the time of the enactment of this Act such assessment, distraint, or proceeding was barred by the statutory period of limitation properly applicable thereto, unless prior to the enactment of this Act the Commissioner and the taxpayer agreed in writing thereto.

LIMITATION ON PROSECUTIONS BY THE UNITED STATES

SEC. 1110. (a) The Act entitled "An Act to limit the time within which prosecutions may be instituted against persons charged with violating internal-revenue laws," approved July 5, 1884, as amended, is reenacted without change, as follows:

"That no person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws of the United States unless the indictment is found or the information instituted within three years next after the commission of the offense: *Provided*, That for offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, the period of limitation shall be six years, but this proviso shall not apply to acts, offenses, or transactions which were barred by law at the time of the enactment of the Revenue Act of 1924: *Provided further*, That the time during which the person committing the offense is absent from the district wherein the same is committed shall not be taken as any part of the time limited by law for the commencement of such proceedings: *Provided further*, That the provisions of this Act shall not apply to offenses committed prior to its passage: *Provided further*, That where a complaint shall be instituted before a commissioner of the United States within the period above limited, the time shall be extended until the discharge of the grand jury at its next session within the district: *And provided further*, That this Act shall not apply to offenses committed by officers of the United States."

(b) Any prosecution or proceeding under an indictment found or information instituted prior to the enactment of the Revenue Act of 1921 shall not be affected in any manner by this section, nor by the amendment by the Revenue Act of 1921 of such Act of July 5, 1884, but such prosecution or proceeding shall be subject to the limitations imposed by law prior to the enactment of the Revenue Act of 1921.

REFUNDS

SEC. 1111. Section 3220 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3220. Except as otherwise provided in sections 284 and 319 of the Revenue Act of 1926 the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; also to repay to any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal-revenue taxes collected by him, with the cost and expenses of suit; also all damages and costs recovered against any assessor, assistant assessor, collector, deputy collector, agent, or inspector, in any suit brought against him by reason of any thing done in the due performance of his official duty, and shall make report to Congress at the beginning of each regular session of Congress of all transactions under this section." [1]

SEC. 1112. Section 3228 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3228. (a) All claims for the refunding or crediting of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as provided in sections 284 and 319 of the Revenue Act of 1926, be presented to the Commissioner of Internal Revenue within four years next after the payment of such tax, penalty, or sum.[1]

"(b) Except as provided in section 284 of the Revenue Act of 1926, claims for credit or refund (other than claims in respect of taxes imposed by the Revenue Act of 1916, the Revenue Act of 1917, or the Revenue Act of 1918) which at the time of the enactment of the Revenue Act of 1921 were barred from allowance by the period of limitation then in existence, shall not be allowed."

LIMITATIONS UPON SUITS AND PROCEEDINGS BY THE TAXPAYER

SEC. 1113. (a) Section 3226 of the Revised Statutes, as amended, is reenacted without change, as follows:

"SEC. 3226. No suit or proceeding shall be maintained in any court for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after any such disallowance notify the taxpayer thereof by mail." [2]

(b) This section shall not affect any proceeding in court instituted prior to the enactment of the Revenue Act of 1924.

PENALTIES

SEC. 1114. (a) Any person required under this Act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this Act, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at

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[1] See page 125.

[2] See page 127.

the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this Act to collect, account for and pay over any tax imposed by this Act, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this Act or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, the internal-revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

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(e) Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy.

(f) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

REVISED STATUTES

SEC. 1115. Sections 3164, 3165, 3167, 3172, and 3173 of the Revised Statutes, as amended, are reenacted without change, as follows:

"SEC. 3164. It shall be the duty of every collector of internal revenue having knowledge of any willful violation of any law of the United States relating to the revenue, within thirty days after coming into possession of such knowledge, to file with the district attorney of the district in which any fine, penalty, or forfeiture may be incurred, a statement of all the facts and circumstances of the case within his knowledge, together with the names of the witnesses, setting forth the provisions of law believed to be so violated on which reliance may be had for condemnation or conviction.

"SEC. 3165. Every collector, deputy collector, internal-revenue agent, and internal-revenue officer assigned to duty under an internal-revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal-revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

"Sec. 3167. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

"Sec. 3172. Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal-revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

"Sec. 3173. It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, (1) in case of a special tax, on or before the thirty-first day of July in each year, and (2) in other cases before the day on which the taxes accrue, to make a list or return, verified by oath, to the collector or a deputy collector of the district where located, of the articles or objects, including the quantity of goods, wares, and merchandise, made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, article or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is erroneous, false, or fraudulent, or contains any undervaluation or understatement, or refuses to allow any regularly authorized Government officer to examine the books of such person, firm, or corporation, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of such person or any other person he may deem proper, to appear before him and produce such books at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects or income liable to tax or the returns thereof. The collector may summon any person residing or found within the State or Territory in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State or Territory, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned: *Provided*, That 'person,' as used in this section, shall be construed to include any corporation, joint-stock company or association, or insurance company when such construction is necessary to carry out its provisions."

INTEREST ON REFUNDS AND CREDITS

Sec. 1116. (a) Upon the allowance of a credit or refund of any internal-revenue tax erroneously or illegally assessed or collected, or of any penalty collected without authority, or of any sum which was excessive or in any manner wrongfully collected, interest shall be allowed and paid on the amount of such credit or refund at the rate of 6 per centum per annum from the date such tax, penalty, or sum was paid to the date of the allowance of the refund, or in the case of a credit, to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment made under the Revenue Act of 1921, the Revenue Act of 1924, or this Act, then to the date of the assessment of that amount.

(b) As used in this section—

(1) The term "additional assessment" means a further assessment for a tax of the same character previously paid in part, and includes the assessment of a deficiency under Title II or Title III of the Revenue Act of 1924 or of this Act;

(2) The term "date of the allowance of the refund" means, in the case of any income, war-profits, or excess-profits tax, the first date on which the Commissioner signs the schedule of overassessments in respect thereof.

(c) This section shall be applicable to any refund paid, and to any credit taken, on or after the date of the enactment of this Act, even though such refund or credit was allowed prior to such date.[1]

INTEREST ON JUDGMENTS

Sec. 1117. Section 177 of the Judicial Code, as amended, is amended to read as follows:

"Sec. 177. (a) No interest shall be allowed on any claim up to the time of the rendition of judgment by the Court of Claims, unless upon a contract expressly stipulating for the payment of interest, except as provided in subdivision (b).

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[1] See page 131.

"(b) In any judgment of any court rendered after the enactment of the Revenue Act of 1926 (whether against the United States, a collector or deputy collector of internal revenue, a former collector or deputy collector, or the personal representative in case of death) for any internal-revenue tax erroneously or illegally assessed or collected, or for any penalty collected without authority or for any sum which was excessive or in any manner wrongfully collected, under the internal-revenue laws, interest shall be allowed at the rate of 6 per centum per annum upon the amount of such tax, penalty, or sum, from the date of the payment or collection thereof to the date of entry of such judgment or, if such judgment is reviewed by an appellate court, to the date of entry of final judgment."

PAYMENT OF AND RECEIPTS FOR TAXES

Sec. 1118. (a) Collectors may receive, at par with an adjustment for accrued interest, notes or certificates of indebtedness issued by the United States and uncertified checks in payment of income, war-profits, and excess-profits taxes and any other taxes payable other than by stamp, during such time and under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions to the same extent as if such check had not been tendered.

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(c) In the payment of any tax under this Act not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

JURISDICTION OF COURTS

Sec. 1122. (a) If any person is summoned under this Act to appear, to testify, or to produce books, papers, or other data, the district court of the United States for the district in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

(b) The district courts of the United States at the instance of the United States are hereby invested with such jurisdiction to make and issue, both in actions at law and suits in equity, writs and orders of injunction, and of ne exeat republica, orders appointing receivers, and such other orders and process, and to render such judgments and decrees, granting in proper cases both legal and equitable relief together, as may be necessary or appropriate for the enforcement of the provisions of this Act. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such provisions.

(c) The paragraph added by section 1310 of the Revenue Act of 1921 at the end of paragraph Twentieth of section 24 of the Judicial Code, relating to the jurisdiction of district courts, as amended, is reenacted without change, as follows:

"Concurrent with the Court of Claims, of any suit or proceeding, commenced after the passage of the Revenue Act of 1921, for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected, under the internal-revenue laws, even if the claim exceeds $10,000, if the collector of internal revenue by whom such tax, penalty, or sum was collected is dead or is not in office as collector of internal revenue at the time such suit or proceeding is commenced."

DEPOSIT OF UNITED STATES BONDS OR NOTES IN LIEU OF SURETY

Sec. 1126. Wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called "penal bond," with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security with the official having authority to approve such penal bond, United States Liberty bonds or other bonds or notes of the United States in a sum equal at their par value to the amount of such penal bond required to be furnished, together with an agreement authorizing such official to collect or sell such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. The acceptance of such United States bonds or notes in lieu of surety or sureties required by law shall have the same force and effect as individual or corporate sureties, or certified checks, bank drafts, post-office money orders, or cash, for the penalty or amount of such penal bond. The bonds or notes deposited hereunder and such other United States bonds or notes as may be substituted therefor from time to time as such security, may be deposited with the Treasurer of the United States, a Federal reserve bank, or other depositary duly designated for that purpose by the Secretary, which shall issue receipt therefor, describing such bonds or notes so deposited. As soon as security for the performance of such penal bond is no longer necessary, such bonds or notes so deposited shall be returned to the depositor: *Provided*, That in case a person or persons supplying a contractor with labor or material as provided by the Act of Congress, approved February 24, 1905 (33 Stat. 811), entitled "An Act to amend an Act approved August thirteenth, eighteen hundred and ninety-four, entitled 'An Act for the protection of persons furnishing materials and labor for the construction of public works,'" shall file with the obligee, at any time after a default in the performance of any contract subject to said Acts, the application and affidavit therein provided, the obligee shall not deliver to the obligor the deposited bonds or notes nor any surplus proceeds thereof until the expiration of the time limited by said Acts for the institution of suit by such person or persons, and, in case suit shall be instituted within such time, shall hold said bonds or notes or proceeds subject to the order of the court having jurisdiction thereof: *Provided further*, That nothing herein contained shall affect or impair the priority of the claim of the United States against the bonds or notes deposited or any right or remedy granted by said Acts or by this section to the United States for default upon any obligation of said penal bond: *Provided further*, That all laws inconsistent with this section are hereby so modified as to conform to the provisions hereof: *And provided further*, That nothing contained herein shall affect the authority of courts over the security, where such bonds are taken as security in judicial proceedings, or the authority of any administrative officer of the United States to receive United States bonds for security in cases authorized by existing laws. The Secretary may prescribe rules and regulations necessary and proper for carrying this section into effect.

ENFORCEMENT OF TAX LIENS

Sec. 1127. Section 3207 of the Revised Statutes, as amended, is reenacted without change, as follows:

"Sec. 3207. (a) In any case where there has been a refusal or neglect to pay any tax, and it has become necessary to seize and sell real estate to satisfy the same, the Commissioner of Internal Revenue may direct a bill in chancery to be filed, in a district court of the United States, to enforce the lien of the United States for tax upon any real estate, or to subject any real estate owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax. All persons having liens upon or claiming any interest in the real estate sought to be subjected as aforesaid, shall be made parties to such proceedings, and be brought into court as provided in other suits in chancery therein. And the said court shall, at the term next after the parties have been duly notified of the proceedings, unless otherwise ordered by the court, proceed to adjudicate all matters involved therein, and finally determine the merits of all claims to and liens upon the real estate in question, and, in all cases where a claim or interest of the United States therein is established, shall decree a sale of such real estate, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States.

"(b) Any person having a lien upon or any interest in such real estate, notice of which has been duly filed of record in the jurisdiction in which the real estate is located, prior to the filing of notice of the lien of the United States as provided by section 3186 of the Revised Statutes as amended, or any person purchasing the real estate at a sale to satisfy such prior lien or interest, may make written request to the Commissioner of Internal Revenue to direct the filing of a bill in chancery as provided in subdivision (a), and if the Commissioner fails to direct the filing of such bill within six months after receipt of such written request, such person or purchaser may, after giving notice to the Commissioner, file a petition in the district court of the United States for the district in which the real estate is located, praying leave to file a bill for a final determination of all claims to or liens upon the real estate in question. After a full hearing in open court, the district court may in its discretion enter an order granting leave to file such bill, in which the United States and all persons having liens upon or claiming any interest in the real estate shall be made parties. Service on the United States shall be had in the manner provided by sections 5 and 6 of the Act of March 3, 1887, entitled 'An Act to provide for the bringing of suits against the Government of the United States.' Upon the filing of such bill the district court shall proceed to adjudicate the matters involved therein, in the same manner as in the case of bills filed under subdivision (a) of this section. For the purpose of such adjudication, the assessment of the tax upon which the lien of the United States is based shall be conclusively presumed to be valid, and all costs of the proceedings on the petition and the bill shall be borne by the person filing the bill."

SPECIAL DEPOSITS

Sec. 1128. (a) Section 3195 of the Revised Statutes, as amended, is reenacted without change, as follows:

"Sec. 3195. When any property liable to distraint for taxes is not divisible, so as to enable the collector by sale of a part thereof to raise the whole amount of the tax, with all costs and charges, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for the costs and charges of the distraint and sale, shall be deposited with the Treasurer of the United States as provided in subdivision (b) of section 3210."

(b) Section 3210 of the Revised Statutes, as amended, is reenacted without change, as follows:

"Sec. 3210. (a) Except as provided in subdivision (b) the gross amount of all taxes and revenues received under the provisions of this Act, and collections of whatever nature received or collected by authority of any internal-revenue law, shall be paid daily into the Treasury of the United States under instructions of the Secretary of the Treasury as internal-revenue collections, by the officer receiving or collecting the same, without any abatement or deduction on account of salary, compensation, fees, costs, charges, expenses, or claims of any description. A certificate of such payment, stating the name of the depositor and the specific account on which the deposit was made, signed by the treasurer, assistant treasurer, designated depositary, or proper officer of a deposit bank, shall be transmitted to the Commissioner of Internal Revenue.

"(b) Sums offered in compromise under the provisions of section 3229 of the Revised Statutes and section 35 of Title II of the National Prohibition Act, sums offered for the purchase of real estate under the provisions of section 3208 of the Revised Statutes, and surplus proceeds in any distraint sale, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for costs and charges of the distraint and sale, shall be deposited with the Treasurer of the United States in a special deposit account in the name of the collector making the deposit. Upon acceptance of such offer in compromise or offer for the purchase of such real estate, the amount so accepted shall be withdrawn by the collector from his special deposit account with the Treasurer of the United States and deposited in the Treasury of the United States as internal-revenue collections. Upon the rejection of any such offer, the Commissioner shall authorize the collector, through whom the amount of such offer was submitted, to refund to the maker of such offer the amount thereof. In the case of surplus proceeds from distraint sales the Commissioner shall, upon application and satisfactory proof in support thereof, authorize the collector through whom the amount was received to refund the same to the person or persons legally entitled thereto."

SEIZURE OUTSIDE COLLECTION DISTRICT

Sec. 1129. Section 3200 of the Revised Statutes is amended to read as follows:

"Sec. 3200. Any collector or deputy collector may, for the collection of taxes imposed upon any person, and committed to him for collection, seize and sell any of the property, real or personal (except property exempt from distraint and sale, under section 3187 of the Revised Statutes), or any right or interest therein, of such person situated in any other collection district within the State in which such officer resides, notwithstanding the provisions of section 3209 of the Revised Statutes; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district."

DATE ON WHICH DISTRAINT IS BEGUN

Sec. 1130. In determining the running of any period of limitation in respect of distraint, the distraint shall be held to have been begun (a) in the case of personal property, on the date on which the levy upon such property is made, or (b) in the case of real property, on the date on which notice of the time and place of sale is given to the person whose estate it is proposed to sell.

TITLE XII.—GENERAL PROVISIONS

REPEALS

SEC. 1200. (a) The following parts of the Revenue Act of 1924 are repealed, to take effect (except as otherwise provided in this Act) upon the enactment of this Act, subject to the limitations provided in subdivision (b):

Title II (called "Income Tax") as of January 1, 1925, except section 257 and sections 271 to 282, inclusive;

Section 257 and sections 271 to 282, inclusive (being certain administrative provisions of the income tax);

Part I of Title III (called "Estate Tax");

Part II of Title III (called "Gift Tax") as of January 1, 1926;

Title IV (called "Tax on Cigars, Tobacco, and Manufactures Thereof") except section 400;

Section 400 (being the tax on cigars and cigarettes) effective on the expiration of 30 days after the enactment of this Act;

Title V (called "Tax on Admissions and Dues"), effective on the expiration of 30 days after the enactment of this Act;

Title VI (called "Excise Taxes") except subdivision (2) of section 600;

Subdivision (2) of section 600 (being the tax on certain automobiles) effective on the expiration of 30 days after the enactment of this Act;

Title VII (called "Special Taxes"), effective on June 30, 1926;

Title VIII (called "Stamp Taxes"), effective on the expiration of 30 days after the enactment of this Act;

Sections 1004, 1005, 1006, and 1007, subdivision (a) of section 1008, sections 1009, 1010, 1011, 1012, 1014, 1018, 1019, and 1020, subdivisions (a) and (b) of section 1021, subdivision (c) of section 1025, and sections 1026, 1027, 1028, 1029, 1030, and 1031 (being certain administrative provisions).

(b) The parts of the Revenue Act of 1924 which are repealed by this Act shall (except as provided in sections 283 and 318 and except as otherwise specifically provided in this Act) remain in force for the assessment and collection of all taxes imposed by such Act, and for the assessment, imposition, and collection of all interest, penalties, or forfeitures which have accrued or may accrue in relation to any such taxes, and for the assessment and collection, to the extent provided in the Revenue Act of 1924, of all taxes imposed by prior income, war-profits, or excess-profits tax acts, and for the assessment, imposition, and collection of all interest, penalties, or forfeitures which have accrued or may accrue in relation to any such taxes. In the case of any tax imposed by any part of the Revenue Act of 1924 repealed by this Act, if there is a tax imposed by this Act in lieu thereof, the provision imposing such tax shall remain in force until the corresponding tax under this Act takes effect under the provisions of this Act.

JOINT CONGRESSIONAL COMMITTEE ON INTERNAL-REVENUE TAXATION

SEC. 1203. (a) There is hereby established a joint congressional committee to be known as the Joint Committee on Internal Revenue Taxation (hereinafter in this section referred to as the "Joint Committee"), and to be composed of ten members as follows:

(1) Five members who are members of the Committee on Finance of the Senate, three from the majority and two from the minority party, to be chosen by such Committee; and

(2) Five members who are members of the Committee on Ways and Means of the House of Representatives, three from the majority and two from the minority party, to be chosen by such Committee.

(b) No person shall continue to serve as a member of the Joint Committee after he has ceased to be a member of the Committee by which he was chosen, except that the members chosen by the Committee on Ways and Means who have been re-elected to the House of Representatives may continue to serve as members of the Joint Committee notwithstanding the expiration of the Congress. A vacancy in the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee, and shall be filled in the same manner as the original selection, except that (1) in case of a vacancy during an adjournment or recess of Congress for a period of more than two weeks, the members of the Joint Committee who are members of the Committee entitled to fill such vacancy may designate a member of such Committee to serve until his successor is chosen by such Committee, and (2) in the case of a vacancy after the expiration of a Congress which would be filled by the Committee on Ways and Means, the members of such Committee who are continuing to serve as members of the Joint Committee may designate a person who, immediately prior to such expiration, was a member of such Committee and who is re-elected to the House of Representatives, to serve until his successor is chosen by such Committee.

(c) It shall be the duty of the Joint Committee—

(1) To investigate the operation and effects of the Federal system of internal-revenue taxes;

(2) To investigate the administration of such taxes by the Bureau of Internal Revenue or any executive department, establishment, or agency, charged with their administration;

(3) To make such other investigations in respect of such system of taxes as the Joint Committee may deem necessary;

(4) To investigate measures and methods for the simplification of such taxes, particularly the income tax;

(5) To publish, from time to time, for public examination and analysis, proposed measures and methods for the simplification of such taxes, and to make to the Senate and the House of Representatives, not later than December 31, 1927, a definite report thereon, together with such recommendations as it may deem advisable; and

(6) To report, from time to time, to the Committee on Finance and the Committee on Ways and Means and, in its discretion, to the Senate or the House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

(d) The Joint Committee shall have the same right to obtain data and to inspect returns as the Committee on Ways and Means or the Committee on Finance, and to submit any relevant or useful information thus obtained to the Senate, the House of Representatives, the Committee on Ways and Means, or the Committee on Finance. The Committee on Ways and Means or the Committee on Finance may submit such information to the House or to the Senate, or to both the House and the Senate, as the case may be.

(e) The Joint Committee shall meet and organize as soon as practicable after at least a majority of the members have been chosen, and shall elect a chairman and vice chairman from among its members and shall have power to appoint and fix the compensation of a clerk and such experts and clerical, stenographic, and other assistants, as it deems advisable.

(f) The Joint Committee, or any subcommittee thereof, is authorized to hold hearings and to sit and act at such places and times, to require by subpœna or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to have such printing and binding done, and to make such expenditures, as it deems advisable. The cost of stenographic services in reporting such hearings shall not be in excess of 25 cents per hundred words. Subpœnas for witnesses shall be issued under the signature of the chairman or vice chairman.

(g) The members shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Joint Committee, other than expenses in connection with meetings of the Joint Committee held in the District of Columbia during such times as the Congress is in session.

(h) The expenses of the Joint Committee shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers signed by the chairman or vice chairman.

SAVING CLAUSE IN EVENT OF UNCONSTITUTIONALITY

SEC. 1213. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

EFFECTIVE DATE OF ACT

SEC. 1214. Except as otherwise provided, this Act shall take effect upon its enactment.

Approved, February 26, 1926, 10.25 a. m.

REVISED STATUTES

RELEASE OF LIEN

Section 3186, Revised Statutes (as amended by section 613 (a), Revenue Act of 1928 [U. S. C., Sup. VII, title 26, secs. 1560–1567], and as further amended by section 509 of the Revenue Act of 1934).

(a) If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, penalty, additional amount, or addition to such tax, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person. Unless another date is specifically fixed by law, the lien shall arise at the time the assessment list was received by the collector and shall continue until the liability for such amount is satisfied or becomes unenforceable by reason of lapse of time.

(b) Such lien shall not be valid as against any mortgagee, purchaser, or judgment creditor until notice thereof has been filed by the collector—

(1) in accordance with the law of the State or Territory in which the property subject to the lien is situated, whenever the State or Territory has by law provided for the filing of such notice; or

(2) in the office of the clerk of the United States District Court for the judicial district in which the property subject to the lien is situated, whenever the State or Territory has not by law provided for the filing of such notice; or

(3) in the office of the clerk of the Supreme Court of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

(c) Subject to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, the collector of internal revenue charged with an assessment in respect of any tax—

(1) May issue a certificate of release of the lien if the collector finds that the liability for the amount assessed, together with all interest in respect thereof, has been satisfied or has become unenforceable;

(2) May issue a certificate of release of the lien if there is furnished to the collector and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified in the regulations;

(3) May issue a certificate of partial discharge of any part of the property subject to the lien if the collector finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect of such tax and the amount of all prior liens upon such property.

(4) May issue a certificate of discharge of any part of the property subject to the lien if there is paid over to the collector in part satisfaction of the liability in respect of such tax an amount determined by the Commissioner, which shall not be less than the value, as determined by him, of the interest of the United States in the part to be so discharged. In determining such value the Commissioner shall give consideration to the fair market value of the part to be so discharged and to such liens thereon as have priority to the lien of the United States.

(d) A certificate of release or of partial discharge issued under this section shall be held conclusive that the lien upon the property covered by the certificate is extinguished.

(e) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation provide for the acceptance of a single bond complying both with the requirements of section 272 (j) of the Revenue Act of 1928 (relating to the extension of time for the payment of a deficiency), or of any similar provisions of any prior law, and the requirements of subsection (c) of this section.

(f) Subsections (c), (d), and (e) of this section shall apply to a lien in respect of any internal-revenue tax, whether or not the lien is imposed by this section.

LIST OF THE SEVERAL DIVISIONS AND LOCATIONS OF OFFICES OF INTERNAL REVENUE AGENTS IN CHARGE

(Communications should be addressed:
United States Internal Revenue Agent in Charge,

______________________, ______________________)
City State

Territory embraced	Name of division	Location of office
Alabama	Nashville	Nashville, Tenn.
Alaska	Seattle	Seattle, Wash.
Arizona	Los Angeles	Los Angeles, Calif.
Arkansas	Oklahoma	Oklahoma City, Okla.
California:		
Counties of Monterey, Kings, Tulare, Inyo, and counties north.	San Francisco	San Francisco, Calif.
Counties of San Luis Obispo, Kern, San Bernardino, and counties south.	Los Angeles	Los Angeles, Calif.
Colorado	Denver	Denver, Colo.
Connecticut	New Haven	New Haven, Conn.
Delaware	Baltimore	Baltimore, Md.
District of Columbia	do	Do.
Florida	Jacksonville	Jacksonville, Fla.
Georgia	Atlanta	Atlanta, Ga.
Hawaii	Honolulu	Honolulu, Hawaii.
Idaho	Salt Lake	Salt Lake City, Utah.
Illinois:		
Counties of Henderson, Warren, Knox, Peoria, Marshall, La Salle, Grundy, Kankakee, and counties north.	Chicago	Chicago, Ill.
Counties of Hancock, McDonough, Fulton, Tazewell, Woodford, Livingston, Ford, Iroquois, and counties south.	Springfield	Springfield, Ill.
Indiana	Indianapolis	Indianapolis, Ind.
Iowa	Omaha	Omaha, Nebr.
Kansas	Wichita	Wichita, Kans.
Kentucky	Louisville	Louisville, Ky.
Louisiana	New Orleans	New Orleans, La.
Maine	Boston	Boston, Mass.
Maryland	Baltimore	Baltimore, Md.
Massachusetts	Boston	Boston, Mass.
Michigan	Detroit	Detroit, Mich.
Minnesota	St. Paul	St. Paul, Minn.
Mississippi	New Orleans	New Orleans, La.
Missouri	St. Louis	St. Louis, Mo.
Montana	Salt Lake	Salt Lake City, Utah.
Nebraska	Omaha	Omaha, Nebr.
Nevada	San Francisco	San Francisco, Calif.
New Hampshire	Boston	Boston, Mass.
New Jersey	Newark	Newark, N. J.
New Mexico	Denver	Denver, Colo.
New York:		
County of New York, north to Twenty-third Street.	Second New York.	17 Battery Place, New York, N. Y.

Territory embraced	Name of division	Location of office
New York—Continued		
Counties of Kings, Nassau, Queens, Richmond, and Suffolk.	Brooklyn	Brooklyn, N. Y.
County of New York, north of and including 23d Street, and counties of Albany, Bronx, Clinton, Columbia, Dutchess, Essex, Fulton, Greene, Hamilton, Montgomery, Orange, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Scoharie, Sullivan, Ulster, Warren, Washington, and Westchester.	Upper New York.	807 U. S. Parcel Post Building, 341 Ninth Ave., New York, N. Y.
Counties of Franklin, Herkimer, Otsego, Delaware, and counties west.	Buffalo	Buffalo, N. Y.
North Carolina	Greensboro	Greensboro, N. C.
North Dakota	St. Paul	St. Paul, Minn.
Ohio:		
Counties of Preble, Miami, Clark, Madison, Union, Marion, Morrow, Knox, Coshocton, Guernsey, Noble, Washington, and counties south.	Cincinnati	Cincinnati, Ohio.
Counties of Darke, Shelby, Champaign, Logan, Hardin, Wyandot, Crawford, Richland, Ashland, Holmes, Tuscarawas, Harrison, Belmont, Monroe, and counties north.	Cleveland	Cleveland, Ohio.
Oklahoma	Oklahoma	Oklahoma City, Okla.
Oregon	Seattle	Seattle, Wash.
Pennsylvania:		
Counties of Potter, Clinton, Center, Blair, Bedford, and counties east.	Philadelphia	Philadelphia, Pa.
Counties of McKean, Cameron, Clearfield, Cambria, Somerset, and counties west.	Pittsburgh	Pittsburgh, Pa.
Rhode Island	New Haven	New Haven, Conn.
South Carolina	Columbia	Columbia, S. C.
South Dakota	St. Paul	St. Paul, Minn.
Tennessee	Nashville	Nashville, Tenn.
Texas	Dallas	Dallas, Tex.
Utah	Salt Lake	Salt Lake City, Utah.
Vermont	Boston	Boston, Mass.
Virginia	Richmond	Richmond, Va.
Washington	Seattle	Seattle, Wash.
West Virginia	Huntington	Huntington, W. Va.
Wisconsin	Milwaukee	Milwaukee, Wis.
Wyoming	Denver	Denver, Colo.

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